

THE
COMMON
SENSE
OF THE
CONSTITUTION

SOUTHWORTH

ALLEN AND BACON

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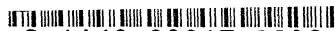
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THE CONSTITUTION OF THE UNITED STATES

BY

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TO THE READER

THE average citizen has rather hazy ideas about the Constitution. Many people have never seen a copy; or if they have, it was so long ago that they have forgotten how it looks. They do not know whether it covers two pages or two hundred. Most of them think it long and involved, when as a matter of fact it is one of the simplest and clearest documents ever written, and is far easier to grasp than ninety per cent of the legal papers of to-day.

We cannot understand United States history unless we keep the Constitution clearly in mind. Nor can we read the news columns of the daily paper intelligently without this knowledge, to say nothing of the editorial page. What can be more futile than to try to wrestle with any phase of the social studies without a clear understanding of the principles which underlie the document upon which our political, economic, and social structure rests?

Laws have been passed in many states, requiring students in the schools to study the Constitution. To meet this requirement, most United States history textbooks used in the schools devote from fifteen to twenty pages to a general discussion of the Constitution. They discuss the origin; the compromises; the legislative, executive, and judicial functions; checks

and balances; and ratification. However, space does not permit them to give a detailed explanation; and if the instructor attempts to explain each paragraph, much time is wasted by the students in taking notes.

The study of the Constitution sounds as dry as a basket of chips, but it is really the most interesting part of a course in United States history or in civics. I asked a class of forty-two seniors the other day how many found the subject interesting. Forty-one said they did, and one said he did not. When this last boy was asked why, he said he was merely like the presidential elector who refused to vote for James Monroe; he did not wish the vote to be unanimous.

Whenever I run across former students they invariably refer to their study of the Constitution of the United States in our school. They lose their notes and ask for copies of mine; they tell me of the advantage they had in college and in the law school because they understood the basic principles of the Constitution, while many other students did not. Some who have begun public and political careers have told me that the grounding which they received in the study of the Constitution was the most valuable part of their school training.

It is my aim to put into book form the substance of this work, and to make available to every American citizen, whether pupil or grown-up, a knowledge of this most important document.

To this end the Constitution is explained paragraph by paragraph, and at the end of each explanation such

questions are raised as the context suggests. The book is short, simple, and clear, so that students may use it in connection with their courses in United States history; or it may be understood by the average citizen who wishes to know something about the fundamental law of his country.

In every case a paragraph of the Constitution is printed first; next the explanation; and then such questions as may come up. Where no explanation is given, the paragraph is self-explanatory. Do not let any of the questions slip by without understanding the points that are raised. Ask your instructor, or your neighbor, or your doctor, or your grocer, or anybody else, and find out what their opinions are.

These questions are for the most part points that have been raised by the students in my classes, and I wish to express my thanks to them. I also wish to testify my gratitude to Mr. Francis A. Smith, Head of the Department of History in the Girls' High School, Boston, and to Mr. Clinton C. Scheffy, Junior Master of English in the English High School, Boston, for reading the proof-sheets and for their valuable suggestions.

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ENGLISH HIGH SCHOOL
BOSTON

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INTRODUCTION

THE ORIGIN OF THE CONSTITUTION

The Framers. — The Constitution was drawn up by as able a body of men as ever assembled for a given purpose. Most of them were widely-read scholars. Of the fifty-five, twenty-nine were college men, and the others included Franklin and Washington. Many times since the days of the Pharaohs, statesmen have drawn up schemes of government which were theoretically excellent but failed to work. The greatest achievement of the Constitutional Convention was the formation of a plan of government that was theoretically sound and eminently practical. The Framers were students of history ; and, profiting by the mistakes of others, they selected the great workable principles of government from the beginning of written history to their own times and incorporated them into this marvelously simple and concise document.

An eminent historian says : “ They drew their inspiration from the history of their own time, from the experience of themselves, and their fathers in America and in England, and from their reading of the political theorists, from Aristotle and Plato to Harrington and Locke.” Think over Gladstone’s famous statement, “ The American Constitution is the most wonderful

work ever struck off at a given time by the brain and purpose of man."

Other Famous Documents. — You ought to know the fundamental principles of government developed in the Magna Charta (1215), the Mayflower Compact (1620), the Fundamental Orders of Connecticut (1639), the New England Confederation (1643), the English Bill of Rights (1689), Franklin's Plan of Union (1754), the Declaration of Rights (1765), the Declaration of Independence (1776), and the Articles of Confederation (1777). You will find them summed up in any good history, and it is not the purpose of this book to treat any of them except the Articles of Confederation.

The Continental Congress functioned for some time without any fundamental frame of government, until the Articles of Confederation were adopted in November, 1777, and submitted to the states for ratification. All the thirteen colonies eventually ratified them, but Maryland did not assent until the year of Cornwallis's surrender, 1781.

The Articles of Confederation. — All governments are divided into three parts: legislative, executive, and judicial; and we shall consider these parts as found in the articles.

The *legislative* functions were to be vested in a Congress of one House, consisting of from two to seven members from each state, but each state was to have only one vote.

The delegates to the Congress were to be paid by the states. Therefore, the fewer delegates that were sent

the less the cost to a state ; and so at certain times some states were not represented at all. Moreover, since each state had one vote, ill feeling grew between the large and the small states, as the large states felt that the small states had undue power.

The *executive* functions were also left in the hands of Congress, but a large body cannot properly exercise executive functions.

The *judicial* functions were left to the states.

Weaknesses of the Articles. — The Articles were afflicted with several diseases, any one of which was bound sooner or later to prove fatal :

1. The Congress did not have the taxing power ; and no government can long exist without the taxing power. Congress could merely send requisitions to the several state legislatures.

2. The Congress could not enforce obedience. As in the case of the taxing power, they could make requisitions upon each state for its quota of soldiers, in proportion to the number of white inhabitants in such state ; but if the state refused to honor such requisitions, there was nothing Congress could do about it.

3. Each state regulated its own commerce as it saw fit, and imposed its own customs duties, not only upon goods imported from foreign countries but also upon importations from neighboring states. In this way, ill feeling between the states was greatly increased.

4. To amend the Articles the unanimous consent of the state legislatures was necessary, and this was a practical impossibility.

It is easy to see why these Articles were made so weak. For over a hundred years the colonists had been struggling against the tyranny of the British government, and tyranny was the one thing of which they were most afraid. It was their intention to give the Congress the power which the colonists thought the English sovereign ought to have had, and that was very little. But the central government was almost powerless, as is shown by the following letter from Washington to Madison :

“ . . . No day was ever more clouded than the present. . . . We are fast verging to anarchy and confusion. . . . How melancholy is the reflection. . . . What stronger evidence can be given of the want of energy in our government than these disorders? . . . A liberal and energetic constitution well-guarded and closely watched to prevent encroachments, might restore us.”

The Critical Period. — After the surrender at Yorktown, the people struggled along as best they could; and their best was very poor.

1. There were contentions over western lands.
2. Sound money had practically disappeared from circulation, and the debtor class in many sections was in open revolt.
3. States legislated against one another.
4. Many questions with foreign nations had been left unsettled.
5. The national government was all but powerless in this so-called Critical Period. But in the years 1785, 1786, and 1787 a series of conferences took place, which

brought about the adoption of the Constitution and restored order out of chaos.

The Conferences. — For years there had been trouble between Maryland and Virginia over their boundary, and their commercial relations. In 1785, a conference was held at Alexandria between delegates representing the States of Maryland and Virginia. This conference adjourned to Mt. Vernon. The points of difference were talked over; and the upshot of the matter was, that Virginia proposed a second conference, to which all the states should be invited, to consider matters relating to the trade and the commerce of the whole thirteen colonies.

This second conference was held at Annapolis in 1786, but for one reason or another only five states were represented. This second conference passed a resolution providing for a third conference to consider amending the Articles; and after some delay and a good deal of debate both in Congress and in the state legislatures, delegates from all the states except Rhode Island met in Philadelphia in May, 1787; and the Constitution of the United States is the result of this conference.

There are many things which you ought to consider at this point, and you will find them discussed in all American histories.

1. The personnel of the conference.
2. The reason for the secrecy of the proceedings.
3. The questions at issue between the large and the small states.
4. The Compromises.

5. Checks and Balances.

6. The place of the United States Constitution among the constitutions of the world.

Washington's Opinions. — How quickly order began to emerge from chaos and how effectively the Constitution functioned, may be judged from the following extracts from letters written by Washington to Lafayette.

June 3, 1790.

“ You have doubtless been informed, from time to time, of the happy progress of our affairs. The principal difficulties . . . seem in a great measure to have been surmounted. A good temper prevails among our citizens. . . . Our government is now happily carried into operation. A funding system is one of the subjects which occasions most anxiety and perplexity. Yet our revenues have been considerably more productive than it was imagined they would be. . . . I mentioned this to show the spirit of enterprise that prevails.”

March 19, 1791.

“ Our country, my dear sir (and it is truly **YOURS**), is fast progressing in its political importance and social happiness. The last session of Congress has been occupied in additional arrangements of finance, to establish the public credit, and provide for the expenditures of government. . . . The laws of the United States, adapted to the public exigencies, are framed with wisdom and moderation, and acquiesced in with cheerfulness.”

THE COMMON SENSE OF THE CONSTITUTION

PREAMBLE OR ENACTING CLAUSE

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.¹

This paragraph states the reasons for the adoption of the Constitution. At the outset, one defect of the Articles of Confederation is corrected. The states made the Articles, but the people made the Constitution.

Six broad and general purposes are enumerated in this first clause. To give a clearer view of what the founders of the Republic had in mind, each purpose is briefly explained.

(a) "Form a more perfect Union." The imperfections of the Articles are enumerated in the Introduction.

¹ Compare the spelling, as well as the capitalization, of the Constitution with that of the later amendments.

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(b) "Establish justice." The Articles did not provide for Federal courts.

(c) "Insure domestic tranquillity." The country was never more disturbed than during the period from the surrender of Cornwallis to Washington's inauguration.

(d) "Provide for the common defence." The Congress, under the Articles, could not raise an army.

(e) "Promote the general welfare." This is a statement of a general purpose.

(f) "Secure the blessings of liberty." Strength, not weakness, secures these blessings. Then, too, Washington in his letter to Congress advocating the adoption of the Constitution said, "Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on the situation and circumstance as on the object to be attained."

1. Are there any questions now before the public, about which there is discussion as to whether they are questions for the states or for the Federal government?

ARTICLE I. LEGISLATIVE DEPARTMENT

SECTION 1, CLAUSE 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Under the Articles of Confederation, Congress consisted of one House, and each state had one vote. The larger states were dissatisfied with this plan and felt that representatives should be chosen according to the population. After much discussion, the compromise found in this clause was adopted. Congress was to consist of two Houses, the House of Representatives and the Senate.

The members of the House of Representatives were to be chosen according to the population, and this plan satisfied the large states. Each state was to have equal representation in the Senate, and this fact assured the small states that they would not be wholly under the domination of the large states. This two-chamber system was modeled after the Colonial legislatures and the English Houses of Parliament.

1. *What are the advantages of the two-chamber system?*

SECTION 2, CLAUSE 1. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Section 2 deals with the House of Representatives. The members of this House are called Congressmen, and they are elected for two years. A Senator is never called a Congressman. The last part of this clause will cause much trouble if you are not careful. The

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word "Electors" has nothing to do with presidential electors: it merely means voters. Any person who votes for a Congressman is an elector of a Congressman.

Many people think that Congress determines the qualifications of voters. This is left to the states. Therefore, a person can vote for a member of the House of Representatives in Washington, if he can vote for a member of the most numerous branch (generally called the House of Representatives) of his own state legislature. The most numerous branch is taken, because in the early days of the Republic, when practically every state had property qualifications for voters, the qualifications for the voters who chose the most numerous branch of the state legislature were likely to be less restricted than those for voters who chose the state senators and governors. This made Congress more democratic.

The qualifications for voters differ in different states. The only other Constitutional provisions on voters' qualifications are found in the fifteenth and the nineteenth amendments.

1. *What is the most numerous branch of your state legislature called?*

2. *What are the qualifications for voters in your state?*

SECTION 2, CLAUSE 2. No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United

States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Here are defined the qualifications of a Representative. They are three in number and are easy to understand, but the third requires some explanation. A Representative must have his legal residence in the state which he represents, but not necessarily in the district. As a matter of fact, however, he almost always does.

The system, as practically carried out, is a system of district representation. We feel that we must have a Representative intimately acquainted with the needs of his district, and there have been very few Congressmen elected from districts other than those in which they live. The election of Ex-Governor Foss of Massachusetts from a Cape Cod district, when he resided in Boston, is an exception.

1. *Do the members of the British House of Commons generally live in the districts which they represent?*

SECTION 2, CLAUSE 3. Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subse-

quent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

The first sentence of this clause is one of the great compromises. In apportioning Representatives and laying taxes, this question arose: How should the slaves be counted? Note that the word "slave" is not used in the Constitution until we come to the amendments. Slaves are called "other persons."

The Northern States, where slaves were few, were perfectly willing to have them counted when taxes were being laid, but were unwilling to have them counted when Representatives were being apportioned. The people of the South felt just the reverse; so the "Three-fifths Compromise" was agreed upon. This is called the "Federal Ratio." The second sentence gives authority for the United States Census. The first census was taken in 1790, and a national census has been taken every ten years since that time. The reapportioning every ten years provided for in this paragraph prevents the "Rotten Borough System" from creeping in. There cannot be more Representatives than

one for every thirty thousand inhabitants, and according to the 1920 census there was one for every 243,013 inhabitants.

1. *Does your state also take a census? If so, when?*
 2. *How many members of the House of Representatives would there be to-day if there were one for every thirty thousand inhabitants?*
-

SECTION 2, CLAUSE 4. When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

When a Representative dies, is removed, or resigns, the executive authority of the state which he represents calls a special election to fill the vacancy.

1. *Who is the executive authority in your state?*
-

SECTION 2, CLAUSE 5. The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

The Speaker of the House of Representatives is one of the most powerful officers in our government. He is chosen every two years at the beginning of the term, and is the presiding officer of the House. It is interesting to compare his powers with those of the Vice-President, who presides over the Senate. The other officers are the clerk, the sergeant-at-arms, the door-keeper

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and his assistants, and the postmaster. There are also stenographers and pages.

The word "impeachment" is generally misunderstood. It means accusation, not conviction. Many think that President Johnson was not impeached. He was impeached but not convicted. Impeachment by the House corresponds to indictment by a grand jury, and when a civil officer of the United States is accused, the House impeaches and the Senate tries. (See Article I, Section 3, Clause 6.) Cases of impeachment have been very few; one president, one cabinet member, and six judges have been impeached.

SECTION 3, CLAUSE 1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

AMENDMENT XVII, SECTION 1. The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures.

SECTION 2. When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the Legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the Legislature may direct.

SECTION 3. This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Each state has two Senators. The smaller states practically demanded equal representation. The term is long. The method of election has been changed by the seventeenth amendment. We shall discuss the seventeenth amendment here. Originally, the qualified voters of the states elected the members of the House of Representatives, while the Senators were elected by the state legislatures. The members of the state legislatures were expected to exercise a more intelligent choice, but as time went on there arose a growing discontent with this practice.

The reasons were various: People thought if they were intelligent enough to elect state officers, Representatives to Congress, and even the President (through electors), they were intelligent enough to elect Senators. It is true that the election of a United States Senator was considered an important matter, and in many cases state legislatures spent an undue amount of time over the election to the neglect of state business. Legislatures were dead-locked for weeks, and the office of Senator remained vacant. Sometimes contests were so bitter that men were elected to legislatures, not because they would be efficient persons to conduct state business, but because they stood pledged to a certain man for Senator. Finally, several notorious

cases of alleged bribery and corruption brought the matter to a head, and by the seventeenth amendment, ratified in 1913, provision was made for the popular election of Senators.

As in the case of a Representative, when a Senator dies, is removed, or resigns, the governor of the state calls a special election, although the legislature of the state may authorize the governor to make a temporary appointment until an election has been held.

It is especially stated that this amendment shall not be *ex post facto*. (See Article I, Section 9, Clause 3.)

SECTION 3, CLAUSE 2. Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

The Senate is a continuous body, one-third of the Senators going out of office every two years. The advantage of this system, of course, is that at least two-thirds of the Senators are always experienced members.

In order to make this possible, the Senate was divided into three classes, one-third going out of office in two years, one-third in four years, and one-third in six years.

Do not make the mistake of thinking that nowadays some Senators are elected for two, some for four, and some for six years. The arrangement above was made merely to start the scheme; and now every Senator is elected for six years, except that when a new state is admitted, one Senator is placed in one class and the other in another class in order that the terms of approximately one-third of the Senators may expire every two years. When the terms of these two Senators expire, every Senator elected thereafter from that state is elected for six years.

Note how gradually the different branches of the government change. The Representatives are elected for two years, the President for four, and the Senators for six. The judges of the Supreme Court are appointed for good behavior, which practically means for life.

1. *About how long is the average term of a judge of the United States Supreme Court?*

2. *Why is it considered more desirable to be a Senator than a Representative?*

SECTION 3, CLAUSE 3. No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

You see that the qualifications for a Senator are somewhat higher than they are for a member of the House. As far as residence goes, Senators are elected at large, and, while it is felt desirable that the Senators live in different sections of the state they represent, it does not always happen so. There is nothing in the Constitution to prevent both Senators from living in the same city, or on the same street, or even in the same house.

1. *What do the words "at large" mean?*
 2. *Where do the Senators in your state live?*
-

SECTION 3, CLAUSE 4. The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The office of Vice-President carries with it prestige but little power. The only active duty of the Vice-President is defined in this paragraph, but not even as President of the Senate is the Vice-President's authority final, for the Senate, as we shall see, makes its own rules and may overrule the Vice-President. The Vice-President has in fact less power than the individual Senator, for he can vote only in case of a tie. Of course, when the Senate is tied, the vote of the Vice-President may be of vital consequence.

Of late years it has been felt that the Vice-President should have some place in the Executive Department so that he may at least know what is going on in the

minds of the President and his Cabinet. With this idea in view, President Harding invited Vice-President Coolidge to attend the Cabinet meetings.

1. *How did it happen that Theodore Roosevelt was elected Vice-President?*

2. *Does the lieutenant-governor preside over the senate in your state?*

SECTION 3, CLAUSE 5. The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The other officers of the Senate are practically the same as those of the House. The President *pro tempore* is always a Senator. The President *pro tempore* is now chosen for the session. He presides whenever the Vice-President is absent. When the office of Vice-President becomes vacant, the President *pro tempore* receives the salary of the Vice-President.

1. *Who was President pro tempore during the last session of Congress?*

SECTION 3, CLAUSE 6. The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside. And no Person shall be convicted without the Concurrence of two thirds of the Members present.

See Article I, Section 2, Clause 5.

In all the state constitutions, there are provisions for impeaching and trying civil officers of the state.

1. *What does the constitution of your state say on this subject?*

SECTION 3, CLAUSE 7. Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

According to the Constitution, a person convicted on impeachment charges may be punished in one or both of two ways. He may be merely removed from office; or he may be removed from office with the provision that he be forever disqualified from holding an office under the United States again. A person may be punished by the first judgment alone, or by the first and the second; but it would not be sensible to pronounce the second judgment on him and let him continue to hold office until the end of his term. After a person has been found guilty on impeachment charges, he may be tried and punished by the courts. However, no man convicted by the Senate has ever been tried by a court on the charges for which the Senate convicted him.

SECTION 4, CLAUSE 1. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

As we saw in our notes on Article I, Section 2, Clause 1, Congress has left the qualifications of voters for Senators and Representatives in the hands of the state legislatures. It has for the most part left the time, the place, and the manner of holding elections in the same hands. Congress, however, has made the following regulations: (1) the territory of a congressional district must be contiguous; (2) voting must be by written or printed ballots; and (3) the time must be the Tuesday after the first Monday in November of every second year.

1. *What is meant by "gerrymander"?*

SECTION 4, CLAUSE 2. The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Congress has never appointed a different day, and always assembles on the first Monday in December. There is a point here that we must note. The election takes place on the Tuesday after the first Monday in November. The terms of the retiring Congressmen do not expire until the fourth day of the following March. Therefore, the newly elected Congressmen do not begin

their terms until approximately thirteen months after their election, unless the President happens to call an extra session. Public opinion is becoming quite strong on this matter. It is felt that thirteen months is too long to wait for the voice of the people to be heard, as expressed in the last election. A proposal has already been introduced setting ahead the date of the President's inauguration and the date of the meeting of Congress to the first week in January. Under the present system "lame ducks" may wield considerable power.

1. *What is a "lame duck"?*
 2. *What is meant by "short session" and by "long session"?*
-

SECTION 5, CLAUSE 1. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

In case the election of a member of either House is disputed, the House concerned has the final decision as to whether or not the member shall retain his seat. The Federal courts have no jurisdiction in this matter. There have been many cases in which men who claimed to be elected have been refused seats.

A quorum in Congress is more than half. More than

half must be present to transact business. The only business a fewer number may transact is to adjourn to a certain time and instruct the sergeant-at-arms to arrest members not excused, so that a quorum may be obtained.

1. *Has a person from your district, apparently elected to Congress, ever been refused a seat?*

SECTION 5, CLAUSE 2. Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

Each House makes its own rules. The House generally adopts the rules of the previous House, and later makes such changes as it wishes. As the Senate is a continuous body, it is not obliged to adopt new rules at the beginning of every session; but, of course, it may change its rules whenever it sees fit.

The punishing power has not been used very often. The punishments, as a rule, are censure and suspension. A censure is a reprimand given by the Speaker. A two-thirds vote is necessary to expel. If only a majority vote were needed, members might be expelled for political reasons when the parties are closely divided and party feeling is running high.

1. *What are the main differences between the rules of the House and those of the Senate?*

2. *What is a "filibuster"?*

SECTION 5, CLAUSE 3. Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those present, be entered on the Journal.

An accurate account of each day's proceedings is kept in the Journal. The Journal is usually published on the following day, and when published is known as the Congressional Record. Oftentimes a great deal of matter not actually spoken in Congress is voted into the Congressional Record.

Sometimes secret sessions are thought desirable. These secret sessions are called "executive sessions," and the most common occasion for them is the discussion of treaties in the Senate. The records of any executive sessions are kept separate and are not published in the Congressional Record.

The methods of voting are usually as follows:

(1) *Viva voce*, (2) a rising vote, (3) passing between tellers, (4) yea and nay vote or roll call. The ordinary way is a *viva voce* vote, and the Speaker decides by the volume of sound. The second and the third methods are more accurate than the first, but the only exact way is by a roll call.

A roll call in the House takes time; but that there may be no fraud on the part of the Speaker, a very small number, namely, one-fifth of those present, may demand a roll call on any question. Sometimes this

method of voting is demanded by the minority merely to delay proceedings.

SECTION 5, CLAUSE 4. Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

All measures to become law must be passed by both Houses; therefore, it would not be sensible for one House to adjourn and leave the other House in session; neither would it be sensible for one House to adjourn to Florida or California in the winter and to Maine in the summer, while the other stayed in Washington.

SECTION 6, CLAUSE 1. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

Under the Articles of Confederation, the delegates to the Congress were paid by the states. Salaries, of course, were not uniform. Naturally, this practice tended to make the delegates give their first allegiance

to their states. Now by this paragraph, all are paid the same amount, and the Representatives and the Senators are not dependent upon their state legislatures for their salaries.

Senators and Representatives receive the same compensation, \$10,000 per year. They also receive a certain amount with which to pay secretaries, and they are allowed mileage at the rate of twenty cents a mile. Members of the English House of Commons served without pay until 1911; therefore, a person was obliged to have an independent income or to be dependent upon some one for support in order to accept election. They now receive 400 pounds a year.

Senators and Representatives are granted freedom from arrest, with the exceptions mentioned, so that no one can prevent their attendance at the sessions of their respective Houses.

A member of Congress should say exactly what he thinks. Therefore, while a member may be rebuked by the Speaker for ill-advised language, he cannot be sued in court for libel or slander. This paragraph does not mean that you are not allowed to ask your Senator or Representative about some speech or remark he made in Congress. It simply means that he cannot be brought into court for anything he may say.

1. *Is the salary high or low?*
2. *What is the "franking privilege"?*

SECTION 6, CLAUSE 2. No Senator or Representative shall, during the time for which he was elected,

be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

No Senator or Representative can be appointed to a civil position which was created while he was a member of Congress; nor to any position the pay of which was increased while he was in Congress.

No Congressman is allowed to hold a second United States office.

1. *Can a "lame duck" be appointed to a civil office?*
 2. *Can a person be a Congressman and Mayor of New York at the same time?*
 3. *Can a person be a Congressman and Postmaster of New York at the same time?*
 4. *Does an English Cabinet official hold two positions at the same time?*
-

SECTION 7, CLAUSE 1. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

In nearly every European country there have been violent struggles between the parliament and the king, for the control of the taxing power. The principle has been generally established, that the taxing power is too important and dangerous to be given to any one

man. There was a great deal of discussion over this clause in the Convention, and finally, at the insistence of the larger states, the originating of bills for raising revenue was left in the hands of the House.

The Senate does not suffer much diminution of power by the provision that bills for raising revenue shall originate in the House, as it can amend any bill. Often a money bill has been sent by the House to the Senate; and when the Senate has finished amending it, the member who introduced the bill in the first place has been unable to recognize it.

1. *Can you mention one or more struggles between a parliament and a king for the control of the taxing power?*

SECTION 7, CLAUSE 2. Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and

against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

One of four things may happen to a bill which has been passed by both the House and the Senate:

1. The President may sign it and it becomes a law.
2. The President may refuse to sign it, in which case he is said to have vetoed it; but the bill may be passed over the veto of the President provided it is approved by a two-thirds vote of both Houses. If a bill is passed over the President's veto, it is important enough to command a roll call. (See Article I, Section 5, Clause 3.)
3. If the President does not return it within ten days (Sundays excepted) to the House in which it originated, the bill becomes a law without his signature. The President sometimes allows a bill to become a law in this way, when he objects to a certain part of the bill but does not wish to hold up the bill as a whole. The President cannot sign one part of a bill and veto another; his signature carries approval of the whole bill.
4. The last provision in this clause makes possible the so-called "Pocket Veto." If a bill is sent to the President within ten days of adjournment, say on February 27, in a year when Congress adjourns March 4, if the President does not approve it, he need not

take the trouble to veto it; he can merely lay it aside (put it in his pocket, as the figure is) and the bill is automatically dead when Congress adjourns.

1. *What is a "rider"?*

2. *Would it be desirable for the executive to approve part, and disapprove part, of a bill if he saw fit?*

SECTION 7, CLAUSE 3. Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives according to the Rules and Limitations prescribed in the Case of a bill.

This clause prevents Congress from putting a measure through (except on a question of adjournment) without the signature of the President, by calling it an order, or a resolution, or a vote and not a bill.

SECTION 8, CLAUSE 1. The Congress shall have Power

To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Any government that is a government must have the taxing power. Here the chief defect of the Articles of Confederation is corrected. The powers given Congress in this clause are very broad. Congress shall have the power to lay taxes. Tax is a general term. Any sum of money paid by the people to support the government is a tax; therefore, the word "taxes" includes duties, imposts, and excises. The words "duties" and "imposts," as applied, mean practically the same thing; namely, taxes on imports. An excise tax is a tax on an article produced inside the country. It is also called an "internal revenue tax."

All duties, imposts, and excises shall be uniform throughout the United States. That is, if a tax of two cents a pound is laid on coffee, two cents must be collected on this article in every port, not one cent in Baltimore and three cents in New Orleans.

Public sentiment felt that the income tax was a fair and just tax, however; and in 1913 the sixteenth amendment was ratified by the necessary three-fourths of the state legislatures. The sixteenth amendment provides that Congress shall have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to census or enumeration.

1. *Are duties, imposts, and excises direct or indirect taxes?*

SECTION 8, CLAUSE 2. To borrow money on the credit of the United States;

The ordinary way for the United States to borrow money is by a bond issue. All the taxing power of Congress is behind United States bonds, and the credit of the government is so good that United States bonds sell much higher than the bonds of high-grade industrial concerns or railroads.

A very poor way to borrow money is by the issue of legal tender notes. During the Civil War, the United States issued \$450,000,000 worth of these notes, and the greater part of them are still outstanding. The only reasons that these notes are worth one hundred cents on the dollar are: first, that the credit of the United States is so good; and, second, that it is our fixed purpose not to issue any more.

1. *How do the present prices and interest yields of United States bonds compare with the prices and interest yields of bonds of three or four high-grade corporations? (See financial page of daily paper.)*

2. *What countries have issued paper money in large quantities since the World War?*

SECTION 8, CLAUSE 3. To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

Here another fatal defect of the Articles of Confederation is remedied. Under the Articles, each state levied whatever duties it saw fit on goods imported from foreign countries and also on goods brought in from

other states. Congress is the logical body to regulate trade with foreign nations, and its power in this respect is practically unlimited. It has even gone so far as to stop foreign trade. (See Embargo Act of 1807.)

To control interstate trade, Congress has created the Interstate Commerce Commission, which primarily regulates railroad transportation. The power of this commission has been extended over steamship companies, express companies, pipe line companies, and telegraph companies.

Congress has also established the Federal Trade Commission, to exercise control over the larger corporations in this country. This Commission consists of five members, and they are authorized to investigate and report on the methods of any person, partnership, or corporation, except banks and common carriers, using unfair methods of competition. Their findings are subject to review by the Federal courts.

As the Indians are wards of the national government, it is fairer for all concerned to have the trade with the Indian tribes regulated by Congress than by the state legislatures.

1. *What is the difference between interstate trade and intrastate trade?*

2. *What are the main points in the Act which established the Interstate Commerce Commission? How have the powers of the Commission been increased?*

3. *What are unfair methods of competition?*

SECTION 8, CLAUSE 4. To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States ;

Under the Articles, the states controlled the process of naturalization ; and so it was easier for a person to become a citizen in some states than in others. It would not be fair to require an alien to reside two months in Massachusetts before becoming a citizen, if the time were two years in Illinois, and twenty years in California. Therefore, this uniform rule of naturalization is eminently just.

Again, under the Articles, the states had jurisdiction over bankruptcy proceedings. If the bankruptcy laws were more lenient in New York than they were in New Jersey, a resident of New Jersey, whose financial affairs were in bad shape, might gain a residence in New York before the storm broke. Under this clause, the United States district courts have jurisdiction over bankruptcy cases.

1. *What is the process of naturalization ?*
 2. *Ought there to be uniform laws relating to marriage, divorce, and cases of insanity ?*
-

SECTION 8, CLAUSE 5. To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures ;

The power to coin money is interpreted to mean also the issuing of paper money ; and, under the authority of this clause, gold and silver certificates, United States

notes, treasury notes, bank notes, and Federal Reserve notes have been issued, as well as metal coins.

The value of money can be actually regulated only by setting the prices of commodities so that a given amount of money will always buy a certain amount of a given commodity. This extreme form of regulation has been tried in only a very few instances. For example, the government, through the Interstate Commerce Commission, regulates railroad rates, thus determining, regardless of fluctuations in prices of other commodities, how many miles of railroad transportation a dollar will buy. However, "to regulate the value thereof," in this clause, means to decide how many grains of the metal and how much alloy there shall be in a given coin.

Congress regulates the value of foreign coin to the extent that it determines at what rates of exchange foreign coin shall be received by the United States Treasury in payment for debt. Congress has, however, never interfered in this matter in private contracts between citizens of the United States and citizens of a foreign state. Payment in all such cases is regulated by the market quotations of foreign exchange.

Congress has done little to regulate weights and measures. In 1828 a standard troy pound was adopted. In 1866, Congress made the use of the metric system permissive. But, as Congress has adopted no definite standard, the states have adopted their own standards, and nearly everywhere the old English weights and measures are used.

1. *Did the government ever fix the price of wheat? of coal?*

2. *What is the present value of the English pound, the French franc, and the Italian lira? (See financial page of daily paper.)*

SECTION 8, CLAUSE 6. To provide for the Punishment of counterfeiting the Securities and current Coin of the United States ;

If there is any one crime in which the United States Secret Service officials are relentless in tracing and prosecuting, that crime is counterfeiting.

SECTION 8, CLAUSE 7. To establish Post Offices and post Roads ;

The words "to establish post offices" have been interpreted to give Congress every conceivable authority over the mails. Congress not only establishes post offices but also builds post offices. Carrying mail is a government monopoly. Interference with the mails is a serious offense. (See notes on Article IV, Section 4, Clause 1.)

Post roads are now for the most part a thing of the past, but the question of "internal improvements" was vital in the early part of the nineteenth century. Of course, most of the mails are now carried by rail; but rivers, harbors, and canals are post roads if mails are carried over them.

1. *What arguments arose over "internal improvements" during the Monroe and the John Quincy Adams administrations?*

SECTION 8, CLAUSE 8. To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries ;

The copyright provisions are extended to cover pictures and musical compositions, as well as literary productions. A copyright is granted for twenty-eight years, and may be renewed for twenty-eight more. If a person owns a copyright, it goes to his heirs at his death. A patent runs for seventeen years. A patent may be renewed by act of Congress, but no patent has ever been renewed. Patents, like copyrights, are a part of a person's estate. A trade mark is neither a copyright nor a patent, but Congress controls trade marks under the interstate commerce provision in Article I, Section 8, Clause 3.

1. *What is a "pirated" edition?*
 2. *Would international patent laws be desirable?*
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SECTION 8, CLAUSE 9. To constitute Tribunals inferior to the supreme Court ;

The courts inferior to the Supreme Court, which are constituted by this provision, are the circuit courts of appeals and the district courts. In the early days it

was impossible to bring suit against the Federal government; so, in 1855, the Court of Claims was established. This court hears cases involving breaches of contracts where the Federal government is concerned. For cases involving bodily injury, such as being struck by a mail truck, the injured party has no recourse, unless the driver of the truck is financially responsible, except by act of Congress. This is very unsatisfactory.

There are also special courts, such as the courts in the territories and the District of Columbia.

SECTION 8, CLAUSE 10. To define and Punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

Piracy is robbery on the high seas. Pirates are enemies of all mankind and may be captured and brought into the jurisdiction of the Federal courts. A felony is not defined by United States law, but in general the term means a very serious crime. Piracies and felonies on the high seas and violations of international law are certainly not crimes against individual states; and the trial of these crimes in the United States courts is entirely logical.

SECTION 8, CLAUSE 11. To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

Declarations of war, like the taxing power, are too important and dangerous to be given to any one man;

therefore, the people declare war through their representatives in Congress.

Letters of Marque authorize private ship owners to prey upon the enemy in time of war. There were many privateers during the Revolution and the War of 1812, but the character of war has so changed that it is doubtful if Congress will ever authorize them in the future. Congress makes the rules concerning the disposition of all property taken from an enemy.

SECTION 8, CLAUSES 12 AND 13. To raise and support Armies, but no Appropriation of Money to that use shall be for a longer Term than two Years ;

To provide and maintain a Navy ;

These two clauses correct another fatal defect of the Articles of Confederation. Under these two clauses the power of Congress to raise land and naval forces to compel submission to its laws is practically unlimited. The only limitation to this power is the phrase in Clause 12, "but no appropriation of money to that use shall be for a longer term than two years"; that is, no appropriation can be raised for a longer term than the life of a Congress. This provision would make it difficult for the President to seize all power and make himself a dictator.

1. *What was the Selective Service Act of May 18, 1917?*

SECTION 8, CLAUSE 14. To make Rules for the Government and Regulation of the land and naval Forces ;

Congress has made many rules for the government and regulation of the land and naval forces as different circumstances have arisen.

1. *What cases are tried by court martial?*

SECTION 8, CLAUSE 15. To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions ;

The militia may be called for the three specific purposes mentioned in this clause :

1. To execute the laws of the union,
2. To suppress insurrections, and
3. To repel invasions.

The militia has been called at the instance of the Federal government three times : at the time of the Whiskey Rebellion in 1794, in the War of 1812, and in 1861. The militia may not be sent out of the country ; therefore, it was not called in the Mexican War, the Spanish War, or the World War.

SECTION 8, CLAUSE 16. To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress ;

Congress has laid down general rules for organizing, arming, and disciplining the militia ; but the states carry out these rules and appoint the officers.

SECTION 8, CLAUSE 17. To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

The seat of the national government ought to be in a location outside of any state, and Congress ought to exercise complete jurisdiction in order that its different activities may be entirely free from the interference of any state or municipal officials.

At one time, when the Continental Congress sat in Philadelphia, the building in which they met was surrounded by soldiers demanding their pay. Congress was not refusing to pay the soldiers because it thought they ought not to be paid; but there was no money with which to pay them, and, as Congress did not own the place where it was sitting, it was powerless to protect itself. Therefore, in 1790, when the states of Maryland and Virginia offered the Federal government the site on the Potomac, where Washington now is, as the seat of the national government, the offer was accepted.

1. *How did the question of the assumption of state debts become associated with the location of the national capital?*

2. *How is the District of Columbia governed? How are taxes apportioned in the District?*

SECTION 8, CLAUSE 18. To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

The Constitution was drawn up in 1787. It would have been manifestly impossible for any group, no matter how wise and experienced, to draw up a plan of government for the future and foresee every minute detail which might arise. If an attempt had been made to do such a thing, thousands of powers granted to Congress would have been described in this eighth section.

In this section we find only seventeen short paragraphs defining the powers granted to Congress. If Congress had been limited by the powers expressly mentioned in this section, the Constitution would have been a failure long ago. But the Supreme Court has held from the beginning that Congress possesses not only the powers expressly granted but also powers implied from the expressed powers.

This "necessary and proper clause" is called the "Elastic Clause." Hamilton says: "It may be affirmed with perfect confidence that the Constitutional operation of the government would be precisely the same if these clauses were entirely obliterated, as if

they were repeated in every article." In other words, if the government has certain definite powers, it also has authority to make the necessary and proper laws to enforce those powers.

Discussion on this question of implied powers arose first over the establishment of a United States Bank. Hamilton argued that if the government could lay and collect taxes, it was implied that it could establish a bank in which funds so collected might be deposited, although the word "bank" was not mentioned in the Constitution. The Federal Reserve System is established to-day, and few doubt its constitutionality, although such a system is not even hinted at in the Constitution.

Examples of the laws which have been passed under the doctrine of implied powers, and on the theory that they are in harmony with the spirit of the Constitution, are the great mass of railroad legislation, the purchase of land at various times, the protective tariff laws, and the immigration laws.

A wise interpretation of this clause is necessary to make the Constitution strong and lasting.

1. *How does the word "elastic" apply here?*
 2. *Are there any other elastic clauses in the Constitution?*
 3. *What was Andrew Jackson's theory concerning the United States Bank?*
-

SECTION 9, CLAUSE 1. The Migration or Importation of such Persons as any of the States now existing

shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or Duty may be imposed on such Importation, not exceeding ten dollars, for each Person.

Just as Article I, Section 8, enumerates the things Congress can do, so Section 9 enumerates the things Congress is forbidden to do. This clause deals with the slave trade. Notice here, just as in Article I, Section 2, Clause 3, the word "slave" is not mentioned. There was some sentiment in 1787 against the slave trade, and the compromise found here was finally adopted: Congress could not stop this trade for twenty years.

In 1807, Congress ended the slave trade and later declared it piracy. (See Article I, Section 8, Clause 10.) The ten-dollar tax was never levied.

1. *Considering the value of a slave, was ten dollars a high tax or a low tax?*

SECTION 9, CLAUSE 2. The Privilege of the Writ of Habeas Corpus shall not be suspended unless when in Cases of Rebellion or Invasion the public Safety may require it.

The writ of *habeas corpus* is one of the most important guarantees of personal liberty. In the early days in European countries, if the authorities wished to get a certain man out of the way, they put him in jail and kept him there indefinitely. He was not brought to

trial, because, if he had been, a jury would have been likely to free him. To prevent this imprisonment without trial, the Constitution provides this writ, so that if any imprisoned person thinks that his trial is being purposely delayed, he may ask his attorney to go to the nearest judge and get a writ of *habeas corpus*. (See Amendment VI.) This writ does not free an accused person; it brings him into court. Lincoln was bitterly attacked for suspending the writ in 1861.

1. *What is the translation of habeas corpus?*

SECTION 9, CLAUSE 3. No Bill of Attainder or *ex post facto* Law shall be passed.

A bill of attainder is an act passed by a legislative body which punishes a person or group of persons without trial. For instance, in the reign of Charles I., impeachment charges were brought in Parliament against the Earl of Strafford. For fear he might be acquitted on these charges, the impeachment proceedings were changed to a bill of attainder. This bill, condemning Strafford to death, was passed by both Houses of Parliament. The king signed it, and Strafford was executed. To prevent such an occurrence in this country, this clause is inserted.

An *ex post facto* law is a law that applies to an act committed before the law was passed or makes the punishment for a crime more severe than it was when the crime was committed. It is important to understand this, not only as a matter of law but also as a

guide for everyday conduct. No person in a position of authority over others should ever make an *ex post facto* ruling. There is no quicker way to be considered an unjust employer or superintendent than by making *ex post facto* rulings.

Now a retroactive ruling is something different. This word generally has a pleasant meaning. For instance, a group of workers receive a wage increase on June 1, but the increase is to date back to March 1 of the same year. This is not regarded as an *ex post facto* ruling. This creates a benefit and is retroactive. In general, *ex post facto* applies to criminal rulings, and retroactive to rulings in civil cases.

1. *Is a law ex post facto which makes the punishment of a crime less severe than it was when the crime was committed?*

2. *What is the derivation of "retroactive"?*

SECTION 9, CLAUSE 4. No Capitation, or other direct Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

The capitation tax is the poll tax, and has never been levied by the United States. Direct taxes have rarely been levied by the national government. There was a question as to whether the income tax was a direct or an indirect tax. In 1861, Congress declared that it was an indirect tax, and taxes on incomes were levied till 1872.

After the repeal of this law, there was constant agita-

tion for its re-enactment, as there was a general feeling that it was a fair tax. In 1894, Congress levied a second income tax. This law was appealed to the Supreme Court, and in 1895 was declared unconstitutional on the grounds that it was a direct tax and therefore should be apportioned among the states according to the census and not according to wealth. (See also Article I, Section 2, Clause 3, and Amendment XVI.)

1. *Is a poll tax levied in your state? If so, who levies it?*
 2. *Does your state levy an income tax?*
 3. *Are there taxes on inheritances to-day?*
-

SECTION 9, CLAUSE 5. No Tax or Duty shall be laid on Articles exported from any State.

In this country, it is the general opinion that the more goods we sell abroad the better off we are. Now if an export tax were laid on an article, the price of that article would be raised, the demand for it would fall off, and consequently less would be sold in foreign countries.

1. *What is meant by "balance of trade"?*
-

SECTION 9, CLAUSE 6. No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

The first part of this paragraph has practically been covered by Article I, Section 8, Clause 1, where the

statement is made that all duties, imposts, and excises shall be uniform throughout the United States. Commercial relations had been so bad between the states during the life of the Confederation that the framers of the Constitution determined to put them all on an equal footing and under no circumstances to allow some ports to outstrip others because of more favorable regulations.

To "enter" means to report a vessel or cargo at the custom house.

To "clear" means to free a ship or cargo by procuring the proper papers at the customs house. A vessel engaged in the coastwise trade is exempt from customs regulations.

1. *May foreign boats engage in the coastwise trade?*
 2. *Do United States ships pay tolls to pass through the Panama Canal?*
-

SECTION 9, CLAUSE 7. No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Neither the President nor any other official can put his hand into the treasury and take funds for any purpose whatever. No money can be spent unless it is appropriated by a law passed by Congress. From time to time the Treasury Department issues statements showing the financial condition of the government.

SECTION 9, CLAUSE 8. No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

When the Constitution was written, there was great prejudice against titles. Titles are contrary to the ideas expressed in the second clause of the Declaration of Independence. The states are also forbidden to grant any titles of nobility. (See Article I, Section 10, Clause 1.)

The second part of this clause does not apply to private citizens; only to persons employed by the United States. Congress may remove this restriction at any time, and has done so; as, for instance, when members of the American Expeditionary Forces were allowed to receive decorations presented by the other Allied Powers.

SECTION 10, CLAUSE 1. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

The preceding section, Section 9, tells what Congress is forbidden to do. Section 10 tells what the states are forbidden to do. The powers which this paragraph

denies to the states are those which unquestionably should be exercised by the Federal government.

Moreover, the same general prohibitions are laid on the states as upon the Federal government; that is, the states are forbidden to pass bills of attainder, ex post facto laws, laws impairing the obligation of contracts, or to grant titles of nobility. The treaty-making power naturally belongs to the Federal government, for endless embarrassment might ensue if the states made treaties with foreign powers or even with one another.

However, states may make mutual concessions to one another, provided they are on subjects which concern the states alone, and do not affect the sovereign power of the Federal government.

Letters of marque and reprisal are now obsolete.

The states are forbidden to coin money. State money issued before the adoption of the Constitution was certainly unsatisfactory currency.

Bills of credit probably mean notes designed to pass as money, issued by a state. The states may issue bonds, for state bonds do not circulate as currency, but the states may not issue paper money. There would be endless confusion if one state made one kind of money legal tender in payment of debts and another state made something else legal tender.

The states as well as the Federal government are forbidden to pass bills of attainder and *ex post facto* laws.

“No state shall pass any law impairing the obliga-

tion of contracts." Many volumes have been written on contracts and contract law, but the general meaning of the preceding sentence is as follows: States may pass laws regulating future contracts, but they may not pass laws which are *ex post facto*. The most famous case is the Dartmouth College case. A charter was granted to Dartmouth College before the Revolution. The New Hampshire legislature passed a law modifying this charter against the will of the trustees of the college. This law the Supreme Court declared null and void on the ground that the New Hampshire legislature had broken a contract and so had acted contrary to the provision stated in this paragraph.

Many charters granted to-day by state legislatures contain provisions that under certain conditions, modifications, or changes in the terms may be made by the legislature.

1. *May a person in your state operate an automobile bearing number plates issued by another state?*

SECTION 10, CLAUSE 2. No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

Here again the matter of duties on imports and exports is brought up, and the states are expressly forbidden to lay such taxes, except what may be absolutely necessary for executing their inspection laws. (See Article I, Section 9, Clause 5.) This means that the states, to protect their inhabitants from goods of inferior quality, may lay charges to cover the cost of inspection of foodstuffs and articles destined for consumption in the state. The net product of all such revenue must be paid into the United States Treasury.

SECTION 10, CLAUSE 3. No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of Delay.

The states are also forbidden to lay duties of tonnage, which means that they are forbidden to lay duties on the carrying capacity of ships which enter their ports — for instance, fifty cents a ton on all cargoes.

All matters concerning troops and ships of war are placed in the hands of Congress (see Article I, Section 8, Clauses 11 and 12), and the treaty-making power is vested in the President and the Senate.

A state may not engage in war unless actually invaded, in which case it may, of course, use all the resources at its command to defend itself.

ARTICLE II. EXECUTIVE DEPARTMENT

SECTION 1, CLAUSE 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Article II deals with the Executive Department. It was pointed out in the introduction that under the Articles of Confederation the executive power as well as the legislative was left to the Congress. The people were afraid of establishing a tyranny; but they saw that the executive power could not be left in the hands of a large body of men, and so they established the Presidency, modeled after the governorships of the states. It was certain that George Washington would be the first President, and this fact assured the people that at any rate no tyranny would be established in his administration.

At first, it was proposed to make the presidential term seven years and the President ineligible for re-election; but the time was cut to four years, and the Constitution is silent on the question of reëlection.

As everybody knows, Washington refused a third term; and the unwritten law that a President shall have only two terms has never been broken.

1. *How many Presidents have been reëlected?*
 2. *Have any Presidents ever been candidates for a third term?*
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SECTION 1, CLAUSE 2. Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The President is not elected directly by the people, but by the Electoral College. College in this sense simply means an assembly brought together for a given purpose; it has nothing to do with an educational institution.

The theory of the Electoral College was as follows: The framers of the Constitution meant to place the election of the President in the hands of a small body of men who should be chosen as the state legislatures directed. This body of carefully chosen and highly intelligent men were calmly and deliberately to choose the President according to their best judgment. This manner of election was designed to free the country from all the dangers of great political excitement and party strife.

The trouble with this theory is that it does not work as it was planned. The parties nominate the presidential candidates, and the electors exercise no independent

judgment whatever. The office of elector is purely honorary, and if an elector chosen on a party ticket did not vote for the candidate nominated in his party convention, he would be considered a traitor to his party.

Electors have been chosen in three ways :

1. By the state legislatures,
2. By the voters of the states voting by districts,
3. By the voters of the states voting on a general ticket.

At the present time they are elected in every state on a general ticket. There are as many electors from each state as the state has Senators and Representatives in Congress. Every now and again there is a movement on foot to abolish the Electoral College by a Constitutional Amendment and have the President elected directly by the people; but as yet no such amendment has ever been proposed.

1. *What is the College of Cardinals?*
 2. *How many electors are there in your state?*
 3. *In your opinion should the President be elected by popular vote?*
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SECTION 1, CLAUSE 3. The electors shall meet in their respective States, and vote by ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Gov-

ernment of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two-thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

This clause has been amended by Amendment XII for the following reason. You notice in the first sentence that each elector originally voted for two persons. The person having the greatest number of votes was elected President. The person having the next greatest number of votes was elected Vice-President. Now if all electors belonging to the winning party cast their

votes for the same two candidates, the result would be a tie vote in very case. This fact encouraged political trickery. In the election of 1800, the Republicans cast their votes for Jefferson and Burr, meaning to elect Jefferson President and Burr Vice-President. They each received the same number of votes, and it was only after a prolonged contest in the House of Representatives that Jefferson was finally elected President. In consequence of this, the twelfth amendment was ratified in 1804.

As the provisions of Clause 3 are superseded by the twelfth amendment, we shall discuss the amendment at this point.

AMENDMENT XII. The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; — The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — The person having the greatest number of votes for President, shall be the President, if such

number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

The electors meet at the capitals of their respective states. They do not all meet in Washington or at any other central place. The electors in a state are

forbidden to vote for two inhabitants of the same state with themselves for President and Vice-President. This does not absolutely prevent the President and the Vice-President from coming from the same state, but it tends to prevent the nomination of two men for these offices from a very large state. There is practically no danger of this anyway, for the President and the Vice-President, for political reasons, are always nominated from different states.

The President and the Vice-President are elected by separate ballots. The President is elected first. Note again that the electors do not exercise any free choice; they merely vote for the candidates nominated in their party conventions. The electors vote for President, and three copies of the number of votes are made in each state. One is sent by mail to the President of the Senate, one is sent by messenger to the President of the Senate, and the third copy is deposited with the records in the United States District Court.

The President of the Senate opens the certificates showing the number of votes, and the votes are then counted. There is no provision made for deciding which votes to count, if more than one set of returns is received from a state. In the election of 1876 when Samuel J. Tilden and Rutherford B. Hayes were the leading presidential candidates, certain states sent two lists of electoral votes to the President of the Senate, one list democratic and one list republican. As the Constitution did not provide for a case like this, an "extra-legal commission" was appointed to decide

which votes should be counted. A few years later Congress passed a law to settle such cases.

If any person has a majority of the votes cast for President, that person is declared elected. In case no person has such a majority, the names of the three candidates having the greatest number of votes are sent to the House of Representatives, and the House then elects the President. This has happened twice in the history of the country.

Each Representative does not have one vote, but the vote is taken by states; that is, before the official vote is taken in the House, the Representatives from each state meet in a room by themselves and decide how the vote of their state shall be cast. Representation from two-thirds of the states (at the present time thirty-two) is needed for a quorum, and it takes a majority vote (at the present time twenty-five) to elect. If the House is deadlocked and no choice is made before the fourth day of March next following, the Vice-President shall act as President.

The person having the greatest number of votes as Vice-President shall be declared elected, if such number be a majority of the whole number of electors appointed. If no person has such a majority, the Senate shall choose the Vice-President from the two highest numbers on the list. A quorum is two-thirds of the whole number of Senators (at the present time sixty-four). The Senators vote individually and not by states. A majority of the whole number (at the present time forty-nine) is necessary to a choice.

1. *Do you know of a case where a candidate who received a majority of the popular vote failed to be elected President?*

2. *How was John Quincy Adams elected in 1824?*

3. *If the election had been thrown into the House in 1920, for whom would the vote of your state have been cast?*

4. *In case the election of the President were thrown into the House, would public opinion permit a deadlock?*

5. *Underline in the Amendment all expressions not found in the original section of the Constitution.*

SECTION 1, CLAUSE 4. The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

The time for choosing the electors has been determined by Congress, and this time is the Tuesday next following the first Monday in November. The electors meet in their respective state capitals on the second Monday in January next following their election.

1. *Does two months seem a long time to have elapsed between the actual voting and the meetings of the Electors?*

SECTION 1, CLAUSE 5. No Person except a natural born Citizen, or a Citizen of the United States at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

This clause defines the qualifications for the Presidency. When the Constitution was adopted, there were many able men born in foreign countries who had helped this country gain its freedom. In order not to exclude these men from the Presidency, they were declared eligible provided they were citizens at the time of its adoption.

1. *Is a person born of American parents in a foreign country a natural-born citizen?*

2. *Was Alexander Hamilton eligible to the Presidency in 1788?*

SECTION 1, CLAUSE 6. In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation, or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

In accordance with the provisions of this clause, Congress passed the Presidential Succession Law in 1886. This law provides that in case of the removal, death, resignation, or inability of both the President and the Vice-President to discharge the duties of their respective offices, the office of President shall be assumed by the members of the Cabinet in the order of the establishment of their respective departments.

This contingency has never arisen. Whenever the Vice-President dies, resigns, or becomes President, his office is left vacant; and the President *pro tempore* presides over the Senate.

SECTION 1, CLAUSE 7. The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

The Presidents received an annual salary of \$25,000 from 1789 to 1873, when the amount was increased to \$50,000. Recently the salary was increased to \$75,000; and the Vice-President's salary was fixed at \$15,000. The President also receives an allowance for travel on land, and a yacht is placed at his disposal for travel by sea. Moreover, he is provided with a residence, the White House; and a certain sum is provided for its up-keep. No provision has ever been made to furnish the Vice-President with a residence.

The President's salary may not be raised to take effect during his term of office. For instance, if Congress increased the amount in 1923, this measure would not take effect until the inauguration of the new President, March 4, 1925.

Therefore, Congress cannot influence the President's action by promising to increase his salary if he signs a certain bill; neither can they threaten him with a loss of salary. The President is not allowed to receive any

sum from a state. For instance, Illinois cannot pay the President a retainer to look out especially for its interests.

1. *Do the President of France and the King of England receive larger salaries than the President of the United States?*

SECTION 1, CLAUSE 8. Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: — “I do solemnly swear (or affirm) “that I will faithfully execute the Office of President “of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of “the United States.”

The President takes his oath of office at noon on March 4. The ceremony takes place in front of the capitol, and the oath is administered by the Chief Justice of the Supreme Court. The oath is very simple. The President promises faithfully to perform the duties of his office and to protect and defend the Constitution to the best of his ability. In case a Quaker or any person who objects to the word “swear” is elected to the office, he may substitute the word “affirm.”

1. *Why did Theodore Roosevelt take the oath of office in Buffalo, New York, after the death of McKinley?*

2. *Where did Calvin Coolidge take the oath of office?*

SECTION 2, CLAUSE 1. The President shall be Commander in Chief of the Army and Navy of the United

States, and of the Militia of the several States, when called into the actual Service of the United States ; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

The President is Commander-in-chief both in peace and in war. In times of peace, the President may order troops and ships of war wherever he sees fit.

If the President orders United States troops to make any movements which may lead to hostilities with a foreign nation, he ought to be certain that Congress will back him up if necessity arises. The seizure of certain Mexican ports by the order of President Wilson might have been construed as likely to lead to war.

The authority to declare war, however, is vested in Congress. (See Article I, Section 8, Clause 11.)

In war time, the President's powers are tremendous. The outstanding example is Abraham Lincoln's Emancipation Proclamation, which was issued in the latter part of 1862.

You probably suppose that somewhere in the Constitution there is a section dealing with the President's Cabinet and its powers and duties. The Cabinet is not mentioned except in this paragraph, and here it is only hinted at. If the President may require the opinion in writing of the principal officer in each of the executive departments, naturally there must be

such departments and such officers. Five departments were created in Washington's administration; and as necessity has arisen Congress has established others. At the present time there are ten: the Departments of State, Treasury, War, Justice, Post Office, Navy, Interior, Agriculture, Commerce, and Labor. The Cabinet member whose opinion in writing is most frequently asked is the Attorney-General.

Cabinet meetings are held on stated days, and naturally the President asks for advice; but he need not follow this advice unless he chooses. In practice, if a Cabinet officer gets out of harmony with the President, he resigns.

A reprieve is a temporary suspension of a sentence. A pardon may be unlimited, or it may be conditional.

The President's pardoning power, of course, applies only to those who have committed offenses against the United States and not to persons convicted and sentenced in the state courts. The President's pardoning power is based upon the theory that justice should be tempered with mercy and that the courts may be in error. Moreover, there may be extenuating circumstances in certain cases which may make clemency advisable. Pardons are also granted on the ground of ill health. All through the ages, in practically every country, there has been some authority vested with the pardoning power.

1. *Why did Mr. Bryan resign from Mr. Wilson's Cabinet?*

2. *What is the meaning of the word "amnesty"?*
 3. *Who has the pardoning power in your state?*
-

SECTION 2, CLAUSE 2. He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The treaty-making power is in the hands of the President, but the Secretary of State usually conducts the negotiations for him. To put a treaty that the President may make into force, the Senate must ratify it by a two-thirds vote. But the Senate as a body has nothing to do with the negotiations. It can ratify or refuse to ratify only when a treaty is submitted to it for approval. It may, however, suggest amendments, in which case the President may take the matter up again with the foreign power or powers involved; or he may let the whole matter drop, if he thinks there is no possibility that two-thirds of the Senators will vote for a treaty of which he approves. The House of Representatives has no part in making a treaty; but if money

is needed to carry a treaty into effect, the House may create an embarrassing situation by refusing to originate a bill appropriating the necessary funds.

Officers of the United States are appointed by the President with the consent of the Senate, by the President alone, by the heads of departments, or by the courts of law. Before 1883, government positions were usually given to members of the party which was victorious at the polls. In 1883, the Civil Service Commission was established; and the President was authorized to place certain government positions on a classified list. Since that time thousands of positions have been added to this list; and now more than seventy-five per cent of all government positions are filled in this way. In general, the higher offices are filled by the President with the consent of the Senate, and the subordinate positions are filled under the direction of the Civil Service Commission.

The President's power to appoint is limited by the Senate, but the Constitution says nothing about his power to remove. The President removed at will until 1867, when the Tenure of Office Act was passed. This Act made it necessary for the President to gain the consent of the Senate before he could remove an officeholder. This law was contrary to common practice and was probably unconstitutional. It was repealed in 1887.

1. *What did Mr. Wilson do with the Treaty of Versailles after the Senate refused to ratify it?*

2. *What amendments to this treaty did the Senate suggest?*

3. *Is a two-thirds vote too great a number to require for the ratification of a treaty?*

4. *What is the only way in which judges may be removed?*

5. *Was President Johnson right in removing Secretary of War Stanton?*

SECTION 2, CLAUSE 3. The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

In case a vacancy occurs in an office when the Senate is not in session, in order that the work of that office may not suffer, the President may make a temporary appointment. This temporary appointee holds his commission until the end of the next session of the Senate unless he is rejected. If the Senate confirms him, he retains the office. If the Senate fails to confirm him, he is automatically dropped.

SECTION 3, CLAUSE 1. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjourn-

ment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Here is the authority for the President's messages. Both Washington and John Adams read their messages, but all other Presidents sent written messages till Woodrow Wilson revived the custom of appearing before Congress in person. The Presidents always send messages at the opening of each session of Congress. They may send special messages whenever they think it necessary.

When emergencies arise, the President may call special sessions of Congress. He never calls the House without the Senate, but he may call the Senate without the House, to ratify treaties or confirm appointments.

In case of a disagreement between the two Houses over adjournment, the President may intervene and set the time. No such disagreement has ever occurred.

The reception of an ambassador by the President shows that the government which that ambassador represents is recognized by the United States.

The President commissions all civil and military officers of the United States.

1. *Why does the President never call the House without the Senate?*

2. *Does the United States at the present time refuse to recognize the governments of any countries?*

SECTION 4, CLAUSE 1. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

(See notes on Article I, Section 2, Clause 5.)

.1. *Can a member of Congress be impeached?* (See Article I, Section 5, Clause 2.)

ARTICLE III. JUDICIAL DEPARTMENT

SECTION 1, CLAUSE 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Under the Articles of Confederation, the judicial power was left in the hands of the states. Here another defect of the Articles is remedied. A system of United States courts is established to decide cases which arise under the United States Constitution, laws, and treaties.

The inferior courts are the Circuit Courts of Appeals, the District Courts, and the Court of Claims. An ordinary Federal case starts in the United States District Court. If appealed, it goes to the Circuit Court of Appeals. If an appeal is taken from the decision of this court, the case goes to the United States Supreme Court, whose decision is final.

The judges are appointed for good behavior, which practically means for life. The only way to remove a judge is by impeachment. The salary of a judge may be raised, but it cannot be lowered. This provision

makes the judiciary independent of Congress; and in case Congress does not like the decisions of a certain judge, it cannot cut down his salary.

1. *What do you think of the movements for the election of judges, the recall of judges, and the recall of judicial decisions?*

2. *Where is the nearest United States District Court?*

SECTION 2, CLAUSE 1. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all Cases of admiralty and maritime Jurisdiction; — to Controversies to which the United States shall be a Party; — to Controversies between two or more States; — between a State and Citizens of another State; — between Citizens of different States, — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In general, a case in law is one covered by statutes. A case in equity is a case not all the aspects of which are covered by laws. In equity cases the injured party or parties ask the court for justice, that is, they ask the court to decide what is right and fair. Many times it is quite difficult to decide whether a case is a case in law or a case in equity. As one writer puts it, "There is hardly a subject of litigation between individuals

which may not involve those ingredients of fraud, accident, trust, or hardship, which would render the matter an object of equitable, rather than of legal jurisdiction."

1. "The judicial power (of the United States) shall extend to all cases, in law and equity, arising under this Constitution." When any case hinges upon the interpretation of the Constitution, the case is brought into the Federal courts.

2. "The laws of the United States." When a United States law is violated, the case is tried in a Federal court.

3. "Treaties made, or which shall be made, under their authority." A violation of a treaty is naturally a case for a United States court rather than for a state court. States are forbidden to make treaties.

4. "To all cases affecting ambassadors, other public ministers and consuls." These cases are likely to involve foreign nations and are proper matters for the Federal courts.

5. "To all cases of admiralty and maritime jurisdiction." These cases may involve the principles of international law. They include maritime contracts, collisions at sea, disposition of property seized in war-time, and also questions arising over the navigation of rivers and the Great Lakes.

6. "To controversies to which the United States shall be a party." Any controversy in which the United States is involved certainly would not be settled in a state court, unless the proper United States authorities saw fit to institute the suit in a state court.

7. "To controversies between two or more states." The Federal courts afford impartial tribunals to settle matters over which two or more states are unable to agree.

8. "Between a state and citizens of another state." This clause was interpreted to mean not only that a state could sue citizens of another state, but also the reverse: citizens of another state could sue a state. This was highly objectionable to the states as the theory of state sovereignty was weakened and the states refused to be sued in the United States courts. It was an old theory that a sovereign could not be sued in court.

To remedy this condition, Amendment XI was passed in 1798. This amendment provides that a suit cannot be prosecuted against a state by citizens of another state, or by citizens or subjects of any foreign state in a United States court. In other words, if any one, either a citizen of the United States or a citizen of a foreign state, wishes to bring suit against a state, he must bring this suit according to the laws of the state he wishes to take action against. Most states now make provision for hearing such cases in their own courts.

9. "Between citizens of different states." A Federal court would be more likely than a state court to be impartial in such cases.

10. "Between citizens of the same state claiming lands under grants of different states." Boundaries between states are to-day practically settled, but when

boundaries were more or less indefinite, a man might have been granted a tract of land by a Massachusetts deed; and when the boundary between Massachusetts and New York was surveyed, he might have found his land in New York State. Meanwhile, New York had perhaps granted this same land to a second party. Undoubtedly, one of the parties would bring a suit, and a United States court would be the proper court to settle it.

II. "Between a state, or the citizens thereof, and foreign states, citizens or subjects." A part of this last clause is nullified by Amendment XI. (See notes on 8 above.)

A few general statements may be made in connection with this section. First, the courts rule only on specific cases which are brought before them. They never inform Congress that such and such a proposed law will be unconstitutional if passed. Second, when they decide a case, their decision is of great importance, for it serves as a precedent for governing their decisions in all similar cases which may arise in the future. Third, the first sentence of Clause 1 reads: "The judicial power shall extend to all cases, in law and equity, arising under this Constitution." Under this clause the Supreme Court has assumed the power of interpreting the laws of Congress and has time and time again declared laws invalid because they conflicted, in the judgment of the Court, with the Constitution, which is the fundamental law. In consequence of this, the Supreme Court wields enormous power.

1. *Can you find an example of an equity case in the daily paper?*

2. *In what court is a suit against the United States ordinarily brought?*

3. *A Vermont marble dealer furnishes marble for an addition to the state capitol in your state. The state refuses to pay the contract price because it claims that the quality of the marble is not up to the specifications. The marble dealer claims that the quality is good, and brings suit to collect the full contract price. In what court in your state will this case be heard?*

SECTION 2, CLAUSE 2. In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Original jurisdiction is first jurisdiction. A court where a case is first heard is said to be a court of original jurisdiction. The ordinary Federal courts of original jurisdiction are the United States District Courts. Cases involving ambassadors, other public ministers, consuls, and states are so important that they go directly to the United States Supreme Court. Of course, in these cases the Supreme Court's jurisdiction is final.

In all other cases, the Supreme Court has jurisdiction only when a case is appealed from the lower courts ;

that is, the ordinary procedure in a case is from the District Court to the Circuit Court of Appeals and from the Circuit Court of Appeals to the Supreme Court.

Congress has passed laws which make decisions of the Circuit Court of Appeals final in some cases, and has also given the Court of Claims the final decision in certain cases.

SECTION 2, CLAUSE 3. The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

This clause refers to crimes against the United States and provides for a jury trial. The United States grand jury indicts, and the petit jury tries.

The petit jury usually consists of twelve, and a unanimous vote is necessary to convict. A person cannot be tried outside the state where the crime is committed. It is the general feeling that a man is more likely to receive justice if his case is placed in the hands of a jury living in the same community than if he is tried outside his state. Moreover, this provision saves expense and trouble. It would be inconvenient and expensive to transport lawyers, court officials, and witnesses to a different state for a trial.

Special courts have been established where necessary, such as in the District of Columbia, the territories. and

the Panama Canal zone to try offenses committed in those regions.

1. *What is the function of the grand jury? (See notes on Amendment V.)*

SECTION 3, CLAUSE 1. Treason against the United States shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

In the early history of many countries, treason was inaccurately defined or not defined at all; therefore, whether or not a person was guilty of treason depended upon the arbitrary judgment of those in power. To safeguard against this, treason is exactly defined in this paragraph. A person can commit treason in only two ways: he may wage war against the United States, or he may help an enemy when the country is at war. In order to be convicted of treason, a person must commit a definite act, and at least two witnesses must testify to this overt act; or he himself may confess in open court. Evident intention to commit treason is not treason; neither is sympathy for the enemy.

1. *Was Aaron Burr found guilty of treason?*
 2. *What would be treasonable acts?*
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SECTION 3, CLAUSE 2. The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood,

or Forfeiture except during the Life of the Person attainted.

All through the ages punishment for treason has been harsh and cruel, not only upon the person convicted, but also upon his family and relatives. Then, too, persons have been falsely accused of treason on some pretext or other, and their property has been confiscated by those in power.

This clause provides that no punishment for treason shall fall on any one except the guilty party himself. His family cannot be punished, neither can they be prevented from inheriting property. The punishment for treason may be death or a fine and imprisonment, at the discretion of the court.

The word "attainder" in this clause means "conviction."

ARTICLE IV. RELATIONS OF THE STATES

SECTION 1, CLAUSE 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

The public acts of a state are its enacted laws. The records are the registration of deeds, the probating of wills, etc. ; and the judicial proceedings are the court decisions. If a will is allowed by a probate court in a certain state, the terms of this will are to be effective in every state where a party lives who is interested in the will.

Again, if a deed is properly recorded in the registration office of one state, the courts of every state are bound to recognize this registration. Congress has provided that the above-mentioned acts, records, and proceedings shall be proved by the signatures of the proper authorities and by the affixing of the proper seals.

1. *Can a lawyer or physician admitted to practice in one state thereby be assured of the same privilege in any other state?*

SECTION 2, CLAUSE 1. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

This clause is inserted in order that citizens of the United States may travel freely from one state to another, and may do business in all states without hindrance. A person who goes from one state to another does not take with him the privileges he enjoyed in the state from which he came, but he automatically acquires the privileges of the citizens of the state into which he goes.

These remarks apply mainly to commercial relations. In order to acquire political privileges in a state, a certain period of residence is required.

SECTION 2, CLAUSE 2. A person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up to be removed to the State having Jurisdiction of the Crime.

When a criminal escapes from one state into another, he is brought back into the state where the crime was committed by the following process. The governor of the state in which the crime was committed makes a requisition on the governor of the state into which the alleged criminal has fled. If the alleged criminal has not been arrested, the governor now causes his arrest, and he is delivered to the proper authorities of the other

state. If the governor refuses, there is no way to compel him to grant extradition, as Congress has never passed any laws on the subject. Extradition treaties have been made by most civilized nations, and the extradition of criminals takes place under the provisions of these treaties.

1. *Have you read about any recent instance where the governor of a state has refused a request for extradition?*

2. *In practice, is the second "shall" in this clause ever interpreted "may"?*

SECTION 2, CLAUSE 3. No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

This paragraph refers to slaves and apprentices. If a slave escaped from Maryland into Pennsylvania, he did not become free, although Pennsylvania was a free state. Therefore, the goal of an escaped slave was Canada. The Fugitive Slave Law, passed as part of the Compromise of 1850, aroused much anti-slavery feeling in the North.

SECTION 3, CLAUSE 1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junc-

tion of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

Congress may admit new states, but no provision is definitely made for the acquisition of new territory by purchase or otherwise. Congress *may* admit new states, but it is not obliged to admit them, and when the Kansas-Nebraska bill was the burning issue, the question was raised, "Can Congress prescribe conditions under which a new state may be admitted?"

In general, the following process is pursued in admitting new states: A constitutional convention is held in a territory, a constitution is drafted, and the territory applies for admission into the Union as a state. If a majority of Congress approve this constitution, they may vote to admit the territory as a state. If a majority of Congress disapprove the constitution, no power in the Federal Constitution or anywhere else can force them to admit this territory as a state. If the people of the territory then change the constitution to meet the views of the majority in Congress, Congress may vote again on the question of admission.

Since the time when the eight or twelve stockholders in the Massachusetts Bay Company voted to admit all members of the Puritan church to a voice in the government, this country has been increasingly liberal in granting full rights to the people of newly settled territories.

When Louisiana was admitted in 1812, there was

objection raised in the eastern states to giving people so far away an equal voice in the councils of the government; but the liberal policy prevailed, and since that time state after state has been admitted on terms of exact equality with the thirteen original states. When the Philippines and Porto Rico were acquired from Spain, another question was raised: "Does the Constitution follow the Flag?"

This question was brought before the Supreme Court in the so-called Insular cases. The Court decided that there was a difference between territory of the United States and territory belonging to the United States, and that a territory belonging to the United States need not necessarily have the same kind of government as a territory of the United States.

In order to admit a territory which is a part of a state or states already in the Union, the consent of the legislatures of the states concerned is necessary as well as of the Congress.

1. *What were the main provisions of the North-West Ordinance?*

2. *Under what conditions did Maine become a state?*

3. *Under what circumstances was West Virginia admitted?*

SECTION 3, CLAUSE 2. The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this

Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Territories are governed by laws passed by Congress. The government consists of a governor and judges appointed by the President, and a territorial legislature elected by the people. A representative is sent to Congress. This representative may talk on matters affecting the territory, but he has no vote.

1. *What is the form of the government in the Philippines? In Porto Rico?*

SECTION 4, CLAUSE 1. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

The Constitution does not define a republican form of government, but the Federal form of government established by the United States Constitution may well serve as a model. A republican form of government is one in which people elect their officials at certain stated intervals. If any person or persons attempt to set themselves up as tyrants in a state, it is the duty of the Federal government to interfere. It is the obvious duty of the Federal government to protect the states from invasion.

The states, in most instances, ought to take care of cases of domestic violence themselves; but if circumstances are such that a disturbance in a state gets beyond control of the state authorities, the state legislature or the governor (when the legislature cannot be convened) may ask for Federal aid. If a disturbance in a state assumes such proportions that the functions of the Federal government are hindered, the President may order Federal troops to quell the disturbance without waiting for requests from the state authorities. This action was taken by President Cleveland in connection with the Pullman strike in Chicago in 1894.

ARTICLE V. AMENDMENTS

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress. Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

In order to amend the Articles of Confederation the unanimous consent of the state legislatures was necessary. This was practically impossible, as has already been pointed out. The framers of the Constitution were, therefore, confronted with the problem of how to make amendments to the Constitution practicable and yet not to make the process so easy that the Constitution would be amended every time a new fad sprang up.

The ordinary way to amend the Constitution is for Congress to pass the proposed amendment by a two-thirds vote in both Houses. This proposed amendment is then submitted to the state legislatures for ratification and becomes valid as part of the Constitution when ratified by three-fourths of the legislatures of the states. All Constitutional amendments up to the present time have been made in this manner.

There is a second way to amend the Constitution, but it has never been used. If the legislatures of two-thirds of the states make application to Congress, Congress shall call a convention to propose amendments, and ratification may be made by conventions in three-fourths of the states. The state legislatures have never asked Congress to call such a convention.

It was expressly forbidden to break the compromise over the importation of slaves. Moreover, because of the insistence of the small states, no state can lose its equal representation in the Senate.

Nineteen amendments have been incorporated into the Constitution. The first twelve were adopted before 1805, and the thirteenth, the fourteenth, and the fifteenth arose out of the slavery question and the Civil War. The last four amendments have been incorporated into the Constitution since 1913.

1. *Are there any proposed amendments before the state legislatures for ratification at the present time?*
2. *Upon what subjects are amendments suggested?*

ARTICLE VI. PUBLIC DEBT AND SUPREME LAW OF THE LAND

SECTION 1, CLAUSE 1. All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

The debts which were contracted by the Congress under the Articles of Confederation were perfectly legal, and common honesty demanded that they be paid. They were contracted on behalf of the people of the country and not on behalf of any particular government. This clause definitely stated that the change in the form of our government was not to be used as an excuse to avoid payment of debts. Of course, the credit of the country was greatly strengthened by this statement. We are indebted to Alexander Hamilton, perhaps more than to any other one man, for establishing this country on a firm financial foundation.

1. *How much was the national debt in 1787?*
 2. *How much is the national debt at the present time?*
-

SECTION 1, CLAUSE 2. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States,

shall be the supreme Law of the Land ; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

This clause is known as the "Supreme Law of the Land Clause," and should be learned by heart. This clause definitely establishes the supremacy of the Federal government.

The Constitution and United States laws and treaties are the Supreme Law of the Land ; and all judges, not only in the Federal courts but also in the state courts, must support the United States Constitution, United States laws, and treaties, no matter what is said in the constitution or laws of any state to the contrary. That is, the United States Constitution, laws, and treaties take precedence over all state constitutions and laws.

SECTION 1, CLAUSE 3. The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution ; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Not only must the judges in every state swear to support the Constitution of the United States, but the state senators and representatives as well as the United States Senators and Representatives must be

bound by oath or affirmation to support it. Furthermore, to establish the supremacy of the Constitution and Federal government even more firmly, all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this Constitution. No attempt has ever been made to impose a religious test on an officer of the United States contrary to the provisions of the last part of this clause.

ARTICLE VII. RATIFICATION

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. *In Witness* whereof We have hereunto subscribed our Names,

G^o WASHINGTON —

*Presidt. and Deputy
from Virginia*

In order to amend the Articles of Confederation, it was necessary for the amendment to be agreed to by the Congress, and then to be confirmed by the legislature of every state. As has already been pointed out, unanimous consent for ratification of an amendment was one of the fatal defects of the Articles; and, as you see, the process was entirely changed by the framers of the Constitution, when they required the consent of only nine states to make the Constitution effective between the states so ratifying the same.

After the Constitution was signed, it was sent to

Congress with the request that it be submitted to conventions in the states for ratification. Congress, by a unanimous vote, sent it to the state legislatures on September 28, 1787, with a recommendation that conventions be chosen to consider the question of ratification. A bitter struggle followed. The people became divided into Federalists and Anti-Federalists.

The arguments in favor of ratification were summarized in a series of letters or essays called the "Federalist." These essays were published in a New York newspaper, "The Independent Journal." They were written by Alexander Hamilton, James Madison, and John Jay. The "Federalist" gives the best contemporary account of what the framers expected the Constitution to accomplish; and the clear and logical arguments set forth in these papers did much to convert the people to the idea of ratification. The Federalists believed that the Federal government should be sovereign, that it should act directly upon the people, and that it should possess all the necessary powers to put its laws into effect.

The Anti-Federalists feared the central power: they feared oppression because of the omission of a Bill of Rights; they thought the states could get along very well separately; and, at any rate, they thought that there should be two or more Confederations.

The leaders of the Federalists were Washington, Hamilton, Madison, and Jay. The opposition was led by Patrick Henry, Samuel Adams, and Elbridge Gerry.

Delaware was the first state to ratify, on December 8,

1787. New Hampshire was the ninth, on June 21,
1788. Rhode Island, the thirteenth state, entered the
Union on May 29, 1790.

1. *If you live in one of the thirteen original states,
was the vote for ratification unanimous in your state?*

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION

As has been pointed out, in the discussions in the various state conventions over the question of ratification, there was a general complaint that there was no Bill of Rights written down in black and white. The Federalists pointed out that the measures which were generally understood to belong in a Bill of Rights were taken for granted by everybody and that Congress had ample power to safeguard the rights of the people. But this omission caused a general feeling of uneasiness, and Washington said that the Bill of Rights could easily be obtained by amending the Constitution. A great mass of amendments, nearly two hundred in all, were submitted to Congress by the state conventions; but they were boiled down to ten. The first ten amendments were proposed by the necessary two-thirds of both Houses of Congress, in the fall of 1789, and were ratified by three-fourths of the state legislatures, before the close of the year 1791.

The provisions in the first ten amendments apply only to United States laws, but the same provisions are incorporated in the constitution of practically every state.

1. *Is there a Bill of Rights in the constitution of your state?*

ARTICLE I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

An established religion is a religion that is wholly or partially supported by taxation. In certain colonies, religions had been established prior to the Revolution, but they were disestablished before 1830. This provision applies only to Congress and not to the states, but the constitutions of nearly all the states now provide for complete religious freedom.

In Article VI, Clause 3, we have seen that there is a provision that no religious test shall ever be required as a qualification to hold any office of public trust under the United States.

In the first amendment, citizens are not required by the Federal government to pay taxes to support any church; nor are they to be prohibited from worshiping in any way they see fit. If a certain doctrine, however, recommends a practice which is contrary to public morals, polygamy, for instance, Congress is perfectly within its rights in putting a stop to such a practice.

This amendment also guarantees the right of free speech. There can, of course, be no such thing as absolute free speech. The only persons who say exactly

what they think every minute in the day are babies and fools. If a person is in church, at a meeting, or in any public place, he will hardly say aloud every thought that passes through his head. There is reason in all things, and on general principles a person may say in this country anything he pleases, provided what he says is not libelous or slanderous, or contrary to the public morals; and provided that he does not advocate the overthrow of the government by force. In this country where we have a government, not of men but of laws, it is not reasonable that any one should preach the overthrow of the government by force. If B says, "Murder A, throw him out of office, and let me rule," then it is perfectly logical for C to advocate the murder of B after B has set himself up as a ruler. This is anarchy.

What any person can do, is to advocate the passage of any law or Constitutional amendment he may desire. He may also advocate the repeal of any law or Constitutional provision. There is just one exception to this last statement. According to Article V, no state shall be deprived of its equal suffrage in the Senate.

The principles governing freedom of speech also govern freedom of the press. No person may print matter that is libelous, slanderous, or subversive of public morals. If it is reasonable to say that no person shall by speech urge the overthrow of the government and the Constitution by force, then it is much more reasonable to say that he shall not urge it in print.

There is no government censorship of the press in the United States. In time of war, however, the foregoing principles are likely to be modified for the protection of the State. For instance, a drastic law, commonly called the Espionage Act, was passed in June, 1917.

The people have a right peaceably to assemble. The only restriction on this right is the word "peaceably." No assemblage can be prevented, provided the proper authorities have reasonable assurance that the meeting will be peaceable.

The right to petition the government for a redress of grievances is a right highly prized by all free people. We have all read stories of how in the Middle Ages a person who wished to bring a petition to the notice of the king hid himself behind a clump of bushes and, when the king came riding by, darted out from his hiding place, pushed his way through the king's escort, and forced his petition into the hand of his sovereign. In the United States, any one may petition the government at Washington or the government of his state; and, furthermore, the right to petition carries with it the right to be heard.

1. *In what countries is free speech restricted?*
2. *Who gives permits to hold public meetings in your city?*

ARTICLE II

A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

This article prevents an arbitrary government from seizing all weapons in a certain state or district, or throughout the whole country in order to render the people helpless and to reduce them to a condition of servitude. The article does not mean that a state cannot regulate the sale and display of firearms. The laws passed by the states concerning this matter are not infringements but regulations of the above-mentioned right.

1. *Are weapons sold and carried without restriction in your state?*

ARTICLE III

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

For hundreds of years in time of peace, soldiers have been quartered in private houses for two reasons: first, to make it uncomfortable for a person whom those in authority wished to punish; and second, to extort money from a subject. If the authorities wished to ruin a man, they could quarter a company of soldiers in his house. If, on the other hand, they needed money, they could assign a company of soldiers to his house and then withdraw the company after a certain sum of money was paid. This was blackmail, pure and simple, and, like all blackmail, could be repeated indefinitely, and the amount to be paid could be raised each time.

The quartering of soldiers was one of the causes of the Revolution, and the framers of the Constitution did not intend to have it occur in this country again. In time of war, troops can be quartered only according to laws passed by Congress.

1. *What does the Declaration of Independence say about the quartering of troops?*

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized.

Another cause of the Revolution was the issuing of writs of assistance. A writ of assistance is a general search warrant. Before the Revolution, the British authorities issued these writs to aid their officers in the search for goods alleged to be smuggled. A writ of assistance, or general search warrant, might be issued to allow the search of all houses on a given street; and it can be readily seen how such a warrant was abused.

Therefore, this amendment provides that no warrant shall be issued in the first place unless some one makes a definite accusation, supported by oath or affirmation.

Then, again, only one place can be searched by virtue of the authority granted by the warrant; and finally, search may be made only for the articles particularly described in the warrant.

Of course, there are certain exceptions. A man cannot commit a murder and defy arrest by taking refuge in a certain house until a warrant can be obtained; but in every case of arrest or seizure without a warrant, the burden of proof that the case is one of necessity is on the person who makes the arrest or seizure.

1. *Who is noted for his speech protesting against the writs of assistance?*

2. *In the enforcement of the prohibition laws may houses be searched without a warrant? May vehicles?*

ARTICLE V

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or in public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

A capital crime is a crime punishable by death, and an infamous crime is interpreted to be a crime punishable by a prison sentence. There are two kinds of juries: a grand jury and a petit jury. "Grand" in this sense does not mean great or important; it merely refers to size and means "large." The grand jury may consist of from twelve to twenty-three. Before a person can be tried before a judge and petit jury, the grand jury must hear the evidence against him and decide whether it is probably strong enough to warrant a trial. The district attorney usually presents the evidence; and if the grand jury decides that the accused ought to be tried, an indictment or a "true bill" is found against him. If, on the other hand, the grand jury finds the evidence insufficient, it finds "no bill," and the proceedings are dropped.

The finding of a "true bill" against a person does not mean that he is guilty; it merely means that, in the opinion of the grand jury, he ought to be tried before a judge and a petit jury. The grand jury renders its decision by a majority vote. The grand jury protects an innocent person from undergoing the hardships and losses which a trial necessarily entails. The grand jury also saves the state time and expense. The judicial system in the United States offers many opportunities for a person who has been arrested to prove his innocence.

Most state constitutions require an indictment or a presentment before a grand jury.

A person accused of a crime, who has been acquitted

by the unanimous verdict of a petit jury, can never be tried for the same crime again. But, on the other hand, if the jury finds him guilty, he ordinarily has the right of appeal to a higher court.

In times past, accused persons have been compelled to testify in cases concerning themselves, and often torture has been used to obtain confessions of guilt. This clause provides that no person shall be compelled to be a witness against himself. Furthermore, according to judicial practice, a husband cannot be compelled to testify against his wife, nor the wife against the husband. Of course, the accused has a right to testify voluntarily.

The fact that no person shall be deprived of life, liberty, or property without due process of law protects citizens against arbitrary judgments and acts by those in authority. Due process of law allows appeals from the state to the Federal courts if a United States law is involved.

Oftentimes it becomes necessary for the government, either municipal, state, or Federal, to take certain pieces of property for public uses; for instance, land for a road or a playground, or property on which to build a police station. If the persons owning the property and the government officials concerned are not able to agree upon a fair price, the property is taken by the right of Eminent Domain; and the owners are awarded a price determined under the direction of the courts.

1. *How is the grand jury chosen?*
2. *How is the petit jury chosen?*

3. *What is the so-called "Third Degree"?*
 4. *What are the regulations for taking private property for public use in your municipality?*
 5. *Is a lawyer compelled to testify regarding what has been told to him by a client? Is a physician?*
 6. *Can public service corporations take private property?*
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ARTICLE VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

A speedy trial is guaranteed. Oftentimes the crowded condition of court dockets delays trials, and oftentimes trials are delayed for a long time at the request of the counsel for the defense.

Public trials are held except in certain cases where offenses against the public morals have been committed.

The jury is chosen from the state and the district where the crime has been committed. In the case of offenses against a state, this district is the county. In case the accused feels that the people of the district where the crime was committed are prejudiced against

him, he may ask for trial in another district. This is called a "change of venue."

The accused shall not be left in the dark as to just what the charge against him is; and the witnesses against him may not whisper their accusations secretly to the judge, but must confront the accused in open court.

The accused has the same right as the state to summon witnesses; and if he is unable to retain the services of a lawyer, the state assigns counsel to defend him.

In fine, it is the intention of the Constitution to give a person charged with crime every possible chance to prove his innocence, on the theory that it is better to let ten guilty men go free than that one innocent person shall be punished.

1. *Can you mention a case where a change of venue has been granted or refused?*

2. *Are the statements of dying persons accepted as testimony in court?*

ARTICLE VII

In suits at common law where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

The ancient customs and practices of a people which are not covered by written laws or statutes are called

the common law. For instance, under the common law, if a certain path or road was used by the public without restrictions, in the absence of any law to the contrary, after a certain period of years that road became a public highway.

The two principles of common law which provide for reëxamination of any case tried by a jury are as follows: first, the court where the case was tried may order a new trial; and second, a higher court may on a writ of error review the law, but not the facts, in the case.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

On the theory that a person is innocent until he is proved guilty, it is the custom to allow accused persons their liberty after the court has demanded a property guarantee that the above-mentioned person will appear for trial. The amount of bail must be fixed according to the seriousness of the charge; but in certain cases, such as murders, it may be refused altogether.

The provision against cruel and unusual punishments prevents torture of the body. The legislature of each state has the power to determine punishments.

1. *What cruel and unusual punishments were inflicted in colonial times?*

2. *Do any states at the present time allow whipping?*

ARTICLE IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

It is manifestly impossible to write down in black and white in the Constitution of the United States or in any other document all the rights which the people possess. The fact that a certain right is not definitely mentioned in the Constitution does not mean that the people do not have this right. In fact, the opposite is true. If a right is not defined in the Constitution, in the absence of laws to the contrary, that right is retained by the people.

ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

In Article I, Section 8, the Constitution has granted to Congress certain powers. In Article I, Section 10, the Constitution has denied to the states certain powers, such as treaty-making, coining money, etc. All power comes from the people. Whatever powers are not vested in the Federal government by the Constitution and are not prohibited by it to the states, may be incorporated by the people in their state con-

stitutions or may be retained undelegated by the people.

1. *Mention some examples of powers reserved to the states.*

2. *Mention some examples of powers retained by the people.*

ARTICLE XI

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

This amendment has already been explained under Article III, Section 2, Clause 1.

ARTICLE XII

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; — The Pres-

ident of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

This amendment has already been explained under Article II, Section 1, Clause 3.

ARTICLE XIII

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

President Lincoln issued the Emancipation Proclamation, taking effect, January 1, 1863. This act was a war measure and freed the slaves in the Southern states only. Slavery had been abolished in the District of Columbia and in the territories in 1862. Missouri abolished slavery in 1863; and Maryland, in 1864. The question of a Constitutional amendment abolishing slavery was an issue in the campaign of 1864. In this election, Lincoln was reelected by a large majority; and the amendment was proposed by the necessary two-thirds of both Houses in January, 1865. By the end of the same year, three-fourths of the state legislatures had ratified it; and the amendment was declared in force.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

Notice that in the thirteenth, fourteenth, and fifteenth amendments the last section gives Congress

power to enforce them by appropriate legislation.

1. *Are these enforcement clauses essential?* (See notes on Article I, Section 8, Clause 18.)

ARTICLE XIV

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The slaves were freed by the thirteenth amendment. The fourteenth made them citizens, but the qualifications for voters were left to the different states.

The reason for inserting the second sentence in this section was to prevent the negroes from having their privileges and immunities curtailed.

Since 1890, however, the Supreme Court has held that the word "person" includes corporations. Railroads, public utilities, and corporations in general have successfully appealed to the Supreme Court when states have passed laws which they considered deprived them of "liberty or property."

1. *What people may not become naturalized?*

SECTION 2. Representatives shall be apportioned among the several States according to their respective

numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

The first sentence in this clause does away with the so-called Federal ratio. (See Article I, Section 2, Clause 3.)

The qualifications for voters are a matter left to the states. (See Article I, Section 2, Clause 1.) It is implied in this amendment, however, that persons twenty-one years of age and over shall be allowed the suffrage. But Congress has never imposed the penalty mentioned in this clause upon any state which has denied any of its citizens twenty-one years of age the right to vote.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having pre-

viously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

When this clause was adopted its provisions excluded from Federal offices practically the entire white population of the South who had had experience in governmental affairs. Congress, under the authority granted in the last sentence of this clause, from time to time has removed these disabilities. In 1872, the Amnesty Act was passed; and in 1898, all remaining restrictions were removed.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

This clause definitely announced that the government at Washington assumed full responsibility for all debts it incurred in carrying on the Civil War. The Federal

government and the state governments, however, are forbidden to pay any debts incurred in financing any uprising against the Federal government. Furthermore, they are forbidden to pay any claims for the loss or emancipation of any slave. This clause applied to the slaves of people in the border states who were on the Union side, as well as to the slaves of Confederates.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

(See notes on Amendment XIII, Section 2.)

ARTICLE XV

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

The negro was made a citizen by the fourteenth amendment. The fifteenth forbids the states to disfranchise him, but this amendment does not compel the states to give the franchise to everybody. As we have seen, the qualifications of voters are left in the hands of the states, but if the states deny the right to vote to any citizen, they must deny this right for some other reason than for race, color, or previous condition of servitude.

1. *Are any citizens in your state, twenty-one years of age, denied the right to vote?*

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

(See notes on Amendment XIII, Section 2.)

ARTICLE XVI

SECTION 1. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

(See notes on Article I, Section 8, Clause 1, and Article I, Section 9, Clause 4.)

ARTICLE XVII

SECTION 1. The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures.

SECTION 2. When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the Legislature of any State may empower the executive thereof to make temporary ap-

pointment until the people fill the vacancies by election as the Legislature may direct.

SECTION 3. This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

(See notes on Article I, Section 3, Clause 1.)

ARTICLE XVIII

SECTION 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

After agitation for more than half a century, this amendment was proposed by both Houses of Congress in December, 1917. This amendment is drastic, as it not only forbids the manufacture and sale of intoxicating liquors for beverage purposes but also the transportation of such liquors. Nebraska, the thirty-sixth state, ratified the amendment on January 16, 1919. According to the terms of this section, then, the amendment would become operative January 16, 1920. But while the amendment was before the state legislatures for consideration, Congress passed, as a war measure, the Food Production Act. This act was approved November 21, 1918, and forbade the manufacture and sale of intoxicating liquors after July 1, 1919.

The Supreme Court declared this Food Production Act constitutional; so prohibition became the law of the land more than six months before the time set by this clause.

SECTION 2. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

In certain cases Congress and the states have concurrent powers. For instance, Congress passes laws punishing counterfeiting; but the states may also pass laws punishing this crime, as counterfeiting is a crime against the state as well as against the Federal government. However, in no other clause in the Constitution are the words "concurrent power" used.

Congress has passed a strict enforcement law known as the Volstead Act. In the states which had adopted prohibition laws previous to the passage of this amendment, these laws are still in force. Some other states have refused to enact laws containing the provisions of the Volstead Act, and the enforcement of the provisions of this amendment is a difficult matter.

1. *Has a prohibition law, similar to the Volstead Act, been passed by the legislature of your state?*

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several states, as provided in the Constitution, within seven years

from the date of the submission hereof to the states by the Congress.

This amendment is the only one which contains a time limit for ratification.

1. *Should every amendment provide that ratification must be accomplished within a certain specified time?*

2. *Can a state which has ratified an amendment later rescind its action?*

ARTICLE XIX

SECTION 1. The rights of the citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of sex.

The qualifications of voters are left to the states. (See notes on Article I, Section 2, Clause 1.) Agitation for equal suffrage began about the middle of the last century; and Wyoming gave the suffrage to women in 1869, while it was still a territory. Colorado gave women full political rights in 1893. About twenty states had passed equal suffrage laws when this amendment was finally proposed by the necessary two-thirds of both Houses in June, 1919. The thirty-sixth state, Tennessee, ratified the amendment on August 28, 1920. This amendment does not take away from the states the right to determine the qualifications of voters;

it forbids the states to make any distinction on account of sex.

SECTION 2. Congress shall have power, by appropriate legislation, to enforce the provisions of this article.

(See notes on Amendment XIII, Section 2.)

ARTICLE XX

SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified ; and the terms of their successors shall then begin.

The twentieth amendment, proposed by Congress on March 3, 1932, was ratified by the necessary three-fourths of the state legislatures when Missouri, the thirty-sixth state, ratified it January 23, 1933. By it Congress expires on or before the third day of January, and the President is inaugurated on January 20.

SECTION 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

The Congress meets each year on the third day of January instead of the first Monday in December. The members who take their seats on the third of January are those elected the previous November. Therefore, the Senators and the Representatives begin their duties two months after election instead of thirteen. (See Article I, Section 4, Clause 2.) The short or "Lame Duck" session becomes a thing of the past and both sessions are of indeterminate length. Other advantages of the new arrangement are that the will of the people

may be put into effect more quickly than formerly, and that a Congressman repudiated by the voters no longer has a voice in making the laws.

SECTION 3. If, at the time fixed for the beginning of the term of the President, the President-elect shall have died, the Vice President-elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President-elect shall have failed to qualify, then the Vice President-elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President-elect nor a Vice President-elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such persons shall act accordingly until a President or Vice President shall have qualified.

Amendment XII fails to provide for the possible death of both the President-elect and the Vice President-elect between the date on which the Electoral College meets and January 20. Section 3 states that Congress may by law provide for this contingency.

SECTION 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons

from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

In Amendment XII it is provided that if no person receives a majority in the Electoral College, the House of Representatives chooses a President from the three highest on the list of those voted for as President and the Senate chooses a Vice President from the two highest on a similar list. In case this situation arises and one of the candidates on either list dies, the Congress may by law provide for the situation.

SECTION 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Sections 1 and 2 become operative on Oct. 15, 1933.

SECTION 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of three-fourths of the several States within seven years from the date of its submission.

This amendment carries a time limit for ratification as does Amendment XVIII.

ARTICLE XXI (Proposed)

Joint resolution: Proposing an amendment to the Constitution of the United States.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)

That, the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several states:

SECTION 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

SECTION 2. The transportation or importation into any state, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by convention in the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress.

A resolution to repeal Amendment XVIII was passed by the required two-thirds vote in the Senate on February 16, 1933, and in the House of Representatives on February 20, 1933.

CONSTITUTION OF THE UNITED STATES

PREAMBLE OR ENACTING CLAUSE

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE I. LEGISLATIVE DEPARTMENT

SECTION 1. CONGRESS

1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. HOUSE OF REPRESENTATIVES

1. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

2. No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and

been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

3. Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

5. The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION 3. SENATE

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

2. Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

3. No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

4. The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

5. The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

6. The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside; And no Person shall be convicted without the Concurrence of two thirds of the Members present.

7. Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION 4. BOTH HOUSES

1. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

2. The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION 5. POWERS AND DUTIES OF EACH HOUSE

1. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a

Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

2. Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

3. Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those present, be entered on the Journal.

4. Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION 6. PRIVILEGES AND DISABILITIES OF MEMBERS

1. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony, and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION 7. METHOD OF PASSING LAWS

1. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

2. Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within

ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

3. Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a bill.

SECTION 8. POWERS GRANTED TO CONGRESS

The Congress shall have Power

1. To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

2. To borrow Money on the Credit of the United States;

3. To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

4. To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

5. To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

6. To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

7. To establish Post Offices and post Roads;

8. To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

9. To constitute Tribunals inferior to the supreme Court;

10. To define and Punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

11. To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

12. To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

13. To provide and maintain a Navy;

14. To make Rules for the Government and Regulation of the land and naval Forces;

15. To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

16. To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United

States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

17. To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

18. To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION 9. POWERS DENIED TO THE UNITED STATES

1. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or Duty may be imposed on such Importation, not exceeding ten dollars for each Person.

2. The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

3. No Bill of Attainder or ex post facto Law shall be passed.

4. No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

5. No Tax or Duty shall be laid on Articles exported from any State.

6. No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

7. No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

8. No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION 10. POWERS DENIED TO THE STATES

1. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law,

or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

2. No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

3. No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of Delay.

ARTICLE II. EXECUTIVE DEPARTMENT

SECTION I. PRESIDENT AND VICE-PRESIDENT

1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

2. Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person

holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

3. The electors shall meet in their respective States, and vote by ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two-thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the person having the greatest Number of Votes of the Electors shall be the Vice President. But if there

should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice-President.¹

4. The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

5: No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

6. In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation, or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

7. The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive

¹ This clause was superseded by the 12th Amendment.

within that Period any other Emolument from the United States, or any of them.

8. Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:— “I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

SECTION 2. POWERS OF PRESIDENT

1. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

2. He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Con-

gress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

3. The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION 3. DUTIES OF PRESIDENT

1. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

SECTION 4. IMPEACHMENT

1. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE III. JUDICIAL DEPARTMENT

SECTION I. UNITED STATES COURTS

1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

SECTION 2. JURISDICTION OF UNITED STATES COURTS

1. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all Cases of admiralty and maritime Jurisdiction; — to Controversies to which the United States shall be a Party; — to Controversies between two or more States; — between a State and Citizens of another State; — between Citizens of different States, — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

2. In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall

be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

3. The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

SECTION 3. TREASON

1. Treason against the United States shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

2. The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

ARTICLE IV. RELATIONS BETWEEN THE STATES

SECTION 1. ACTS AND RECORDS OF THE STATES

1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings

of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

SECTION 2. PRIVILEGES OF CITIZENS

1. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

2. A person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up to be removed to the State having Jurisdiction of the Crime.

3. No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

SECTION 3. NEW STATES AND TERRITORIES

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

2. The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION 4. GUARANTEES TO THE STATES

1. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE V. AMENDMENTS

1. The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the

first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

ARTICLE VI. PUBLIC DEBT AND SUPREME LAW OF THE LAND

1. All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

2. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE VII. RATIFICATION

1. The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. *In Witness* whereof We have hereunto subscribed our Names,

G^o WASHINGTON —

Presidt, and Deputy from Virginia ¹

NEW HAMPSHIRE

JOHN LANGDON
NICHOLAS GILMAN

MASSACHUSETTS

NATHANIEL GORHAM
RUFUS KING

CONNECTICUT

WILLIAM SAMUEL JOHNSON
ROGER SHERMAN

NEW YORK

ALEXANDER HAMILTON

NEW JERSEY

WILLIAM LIVINGSTON
DAVID BREARLEY

WILLIAM PATERSON

JONATHAN DAYTON

PENNSYLVANIA

BENJAMIN FRANKLIN

THOMAS MIFFLIN

ROBERT MORRIS

GEORGE CLYMER

THOMAS FITZSIMONS

JARED INGERSOLL

JAMES WILSON

GOUVERNEUR MORRIS

DELAWARE

GEORGE READ

GUNNING BEDFORD, JR.

JOHN DICKINSON

RICHARD BASSETT

JACOB BROOM

¹ Thirty-nine delegates signed; ten did not attend; and sixteen either refused or failed to sign.

MARYLAND
 JAMES M'HENRY
 DANIEL OF ST. THOMAS
 JENIFER
 DANIEL CARROLL

VIRGINIA
 JOHN BLAIR
 JAMES MADISON, JR.
 NORTH CAROLINA
 WILLIAM BLOUNT

RICHARD DOBBS SPAIGHT
 HUGH WILLIAMSON

SOUTH CAROLINA
 JOHN RUTLEDGE
 CHARLES C. PINCKNEY
 CHARLES PINCKNEY
 PIERCE BUTLER

GEORGIA
 WILLIAM FEW
 ABRAHAM BALDWIN

Attest: WILLIAM JACKSON, *Secretary*

ARTICLES IN ADDITION TO, AND AMEND- MENT OF, THE CONSTITUTION, OF THE UNITED STATES OF AMERICA

ARTICLE I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

ARTICLE III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or in public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.¹

ARTICLE XI

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.²

ARTICLE XII

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; — The President

¹ The first ten amendments were adopted in 1791.

² Adopted in 1798.

of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority, of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office

of President shall be eligible to that of Vice-President of the United States.¹

ARTICLE XIII

SECTION 1

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2

Congress shall have power to enforce this article by appropriate legislation.²

ARTICLE XIV

SECTION 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

¹ Adopted in 1804.

² Adopted in 1865.

SECTION 2

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.

But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.¹

ARTICLE XV

SECTION 1

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2

The Congress shall have power to enforce this article by appropriate legislation.²

¹ Adopted in 1868.

² Adopted in 1870.

ARTICLE XVI

SECTION I

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.¹

ARTICLE XVII

SECTION I

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures.

SECTION 2

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the Legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the Legislature may direct.

SECTION 3

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.²

¹ Adopted in 1913.

² Adopted in 1913.

ARTICLE XVIII

SECTION 1

After one year from the ratification of this article, the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

SECTION 2

The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

SECTION 3

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress.¹

ARTICLE XIX

SECTION 1

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

SECTION 2

Congress shall have power to enforce this article by appropriate legislation.²

¹ Adopted in 1919. In force in 1920.

² Adopted in 1920.

ARTICLE XX

SECTION 1

The terms of the President and Vice President shall end at noon on the 20th day of January and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

SECTION 2

The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

SECTION 3

If, at the time fixed for the beginning of the term of the President, the President-elect shall have died, the Vice President-elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President-elect shall have failed to qualify, then the Vice President-elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President-elect nor a Vice President-elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such persons shall act accordingly until a President or Vice President shall have qualified.

SECTION 4

The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

SECTION 5

Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

SECTION 6

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of three-fourths of the several states within seven years from the date of its submission.

ARTICLE XXI (Proposed)

Joint resolution: Proposing an amendment to the Constitution of the United States.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)

That, the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several states:

SECTION 1

The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

SECTION 2

The transportation or importation into any state, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

SECTION 3

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by convention in the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress.

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